

expand participation in the program to up to 7 additional airports if the Administrator determines pursuant to subsection (j) that the pilot program has facilitated more effective use of air traffic capacity and if the Secretary, with the concurrence of the Attorney General, determines that the pilot program has had no adverse effect on airline competition or the availability of air services to communities. The Administrator shall select the additional airports to participate in the extended pilot program in the same manner in which airports were initially selected to participate.

(Added Pub. L. 108-176, title IV, § 423(a), Dec. 12, 2003, 117 Stat. 2552.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 108-176, which was approved Dec. 12, 2003.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

SUBPART II—ECONOMIC REGULATION

CHAPTER 411—AIR CARRIER CERTIFICATES

Sec.

- 41101. Requirement for a certificate.
- 41102. General, temporary, and charter air transportation certificates of air carriers.
- 41103. All-cargo air transportation certificates of air carriers.
- 41104. Additional limitations and requirements of charter air carriers.
- 41105. Transfers of certificates.
- 41106. Airlift service.
- 41107. Transportation of mail.
- 41108. Applications for certificates.
- 41109. Terms of certificates.
- 41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates.
- 41111. Simplified procedure to apply for, amend, modify, suspend, and transfer certificates.
- 41112. Liability insurance and financial responsibility.
- 41113. Plans to address needs of families of passengers involved in aircraft accidents.

AMENDMENTS

1996—Pub. L. 104-264, title VII, § 703(b), Oct. 9, 1996, 110 Stat. 3268, added item 41113.

§ 41101. Requirement for a certificate

(a) GENERAL.—Except as provided in this chapter or another law—

(1) an air carrier may provide air transportation only if the air carrier holds a certificate issued under this chapter authorizing the air transportation;

(2) a charter air carrier may provide charter air transportation only if the charter air carrier holds a certificate issued under this chapter authorizing the charter air transportation; and

(3) an air carrier may provide all-cargo air transportation only if the air carrier holds a certificate issued under this chapter authorizing the all-cargo air transportation.

(b) THROUGH SERVICE AND JOINT TRANSPORTATION.—A citizen of the United States providing transportation in a State of passengers or property as a common carrier for compensation with aircraft capable of carrying at least 30 passengers, under authority granted by the appropriate State authority—

(1) may provide transportation for passengers and property that includes through service by the citizen over its routes in the State and in air transportation by an air carrier or foreign air carrier; and

(2) subject to sections 41309 and 42111 of this title, may make an agreement with an air carrier or foreign air carrier to provide the joint transportation.

(c) PROPRIETARY OR EXCLUSIVE RIGHT NOT CONFERRED.—A certificate issued under this chapter does not confer a proprietary or exclusive right to use airspace, an airway of the United States, or an air navigation facility.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1118.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41101(a)(1) ..	49 App.:1371(a).	Aug. 23, 1958, Pub. L. 85-726, § 401(a), (1), 72 Stat. 754, 756.
41101(a)(2) ..	49 App.:1301(14) (related to certificate).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 101(14) (related to certificate); added Oct. 24, 1978, Pub. L. 95-504, § 2(a)(1), 92 Stat. 1705.
41101(a)(3) ..	(no source).	
41101(b)	49 App.:1371(d) (4)(A)(i), (ii) (related to joint services).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 401(d) (4)(A)(i), (ii) (related to joint services); added Nov. 9, 1977, Pub. L. 95-163, § 9, 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95-504, § 9, 92 Stat. 1713.
41101(c)	49 App.:1371(i).	

In subsections (a)(2) and (c), the words “issued under this chapter” are added for clarity.

In subsection (a), the word “provide” is substituted for “engage in” for consistency in the revised title. The words before clause (1) are added to inform the reader that other provisions of the chapter and other laws qualify the requirement of being licensed by the Secretary of Transportation. In clause (1), the word “holds” is substituted for “there is in force” to eliminate unnecessary words. The words “under this chapter” are substituted for “by the Board” for clarity. In clause (2), the words “of public convenience and necessity” are omitted as surplus. Clause (3) is included to inform the reader at the beginning of this chapter about all of the types of certificates and permits that the Secretary may issue under this subchapter.

In subsection (b), the word “passengers” is substituted for “persons” for consistency in the revised title. Before clause (1), the words “Notwithstanding any other provision of this chapter” are omitted as surplus. The words “providing transportation” are substituted for “undertakes . . . the carriage of” for consistency in the revised title. The words “or hire” are omitted as surplus and for consistency. The words “for such carriage within such State” are omitted as surplus. In clause (1), the words “through service” are substituted for “transportation” the first time it appears for clarity. In clause (2), the words “the requirements of” and “for such through services” are omitted as surplus.

In subsection (c), the word “property” is omitted as surplus. The words “landing area” are omitted because they are included in the definition of “air navigation facility” in section 40102(a) of the revised title.

§ 41102. General, temporary, and charter air transportation certificates of air carriers

(a) **ISSUANCE.**—The Secretary of Transportation may issue a certificate of public convenience and necessity to a citizen of the United States authorizing the citizen to provide any part of the following air transportation the citizen has applied for under section 41108 of this title:

- (1) air transportation as an air carrier.
- (2) temporary air transportation as an air carrier for a limited period.
- (3) charter air transportation as a charter air carrier.

(b) **FINDINGS REQUIRED FOR ISSUANCE.**—(1) Before issuing a certificate under subsection (a) of this section, the Secretary must find that the citizen is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) In addition to the findings under paragraph (1) of this subsection, the Secretary, before issuing a certificate under subsection (a) of this section for foreign air transportation, must find that the transportation is consistent with the public convenience and necessity.

(c) **TEMPORARY CERTIFICATES.**—The Secretary may issue a certificate under subsection (a) of this section for interstate air transportation (except the transportation of passengers) or foreign air transportation for a temporary period of time (whether the application is for permanent or temporary authority) when the Secretary decides that a test period is desirable—

- (1) to decide if the projected services, efficiencies, methods, and prices and the projected results will materialize and remain for a sustained period of time; or
- (2) to evaluate the new transportation.

(d) **FOREIGN AIR TRANSPORTATION.**—The Secretary shall submit each decision authorizing the provision of foreign air transportation to the President under section 41307 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1119.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41102(a)	49 App.:1371(d)(1) (words before 1st comma and after semicolon), (2) (1st–32d words).	Aug. 23, 1958, Pub. L. 85–726, § 401(d)(1), (2), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95–504, § 8, 92 Stat. 1712; re-stated Feb. 15, 1980, Pub. L. 96–192, § 4, 94 Stat. 37.
	49 App.:1371(d)(3) (words before 6th comma).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(3); added July 10, 1962, Pub. L. 87–528, § 2, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95–504, § 8, 92 Stat. 1712; re-stated Feb. 15, 1980, Pub. L. 96–192, § 4, 94 Stat. 37.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41102(b)(1) ..	49 App.:1371(d)(1) (words between 1st and last commas), (2) (42d–last words), (3) (words after 7th comma).	
	49 App.:1551(b)(1)(E).	

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41102(b)(2) ..	49 App.:1371(d)(1) (words between last comma and semicolon), (2) (33d–41st words), (3) (words between 6th and 7th commas).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a) (1)(A), (B); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
	49 App.:1551(a)(1)(A).	
41102(c)	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(8) (1st sentence); added Oct. 24, 1978, Pub. L. 95–504, § 13, 92 Stat. 1718.
	49 App.:1371(d)(8) (1st sentence).	
	49 App.:1551(a)(1)(B), (b)(1)(E).	
41102(d)	(no source).	

In this section, the words “citizen of the United States” and “citizen” are substituted for “applicant” for clarity and consistency because only a citizen of the United States may be an “air carrier” as defined in section 40102(a) of the revised title, and only an air carrier may be a “charter air carrier” as defined in section 40102(a). The word “provide” is substituted for “perform” for consistency in the revised title.

In subsection (a), before clause (1), the words “of public convenience and necessity” are added for clarity. The words “any part of” are substituted for “the whole or any part of” to eliminate unnecessary words. In clauses (2) and (3), the words “In the case of” are omitted as surplus. In clause (3), the words “for such periods” are omitted as surplus.

In subsection (b)(1), the word “comply” is substituted for “conform” for consistency in the revised title. The words “properly” and “requirements” are omitted as surplus. The word “rules” is omitted as being synonymous with “regulations”.

In subsection (b)(2), the words “foreign air transportation” are added because 49 App.:1551(a)(1)(A) provides that 49 App.:1371(d)(1)–(3) no longer applies to interstate or overseas transportation of persons. After January 1, 1985, other interstate and overseas air transportation and the domestic air transportation of mail do not require a certificate of public convenience and necessity. See H. Rept. 98–793, 98th Cong., 2d Sess., p.10 (1984).

In subsection (c), before clause (1), the words “issue a certificate” are substituted for “grant an application” for consistency in this chapter. The words “for interstate air transportation (except the transportation of passengers) or foreign air transportation” are added for clarity and consistency. The word “only” is omitted as surplus. In clause (1), the word “prices” is substituted for “rates, fares, charges” because of the definition of “price” in section 40102(a) of the revised title. The words “in fact” are omitted as surplus. In clause (2), the words “to assess the impact of the new services on the national air route structure, or otherwise” are omitted as surplus.

Subsection (d) is added for clarity.

§ 41103. All-cargo air transportation certificates of air carriers

(a) **APPLICATIONS.**—A citizen of the United States may apply to the Secretary of Transportation for a certificate authorizing the citizen to provide all-cargo air transportation. The application must contain information and be in the form the Secretary by regulation requires.

(b) **ISSUANCE.**—Not later than 180 days after an application for a certificate is filed under this section, the Secretary shall issue the certificate to a citizen of the United States authorizing the citizen, as an air carrier, to provide any part of

the all-cargo air transportation applied for unless the Secretary finds that the citizen is not fit, willing, and able to provide the all-cargo air transportation to be authorized by the certificate and to comply with regulations of the Secretary.

(c) **TERMS.**—The Secretary may impose terms the Secretary considers necessary when issuing a certificate under this section. However, the Secretary may not impose terms that restrict the places served or prices charged by the holder of the certificate.

(d) **EXEMPTIONS AND STATUS.**—A citizen issued a certificate under this section—

(1) is exempt in providing the transportation under the certificate from the requirements of—

(A) section 41101(a)(1) of this title and regulations or procedures prescribed under section 41101(a)(1); and

(B) other provisions of this part and regulations or procedures prescribed under those provisions when the Secretary finds under regulations of the Secretary that the exemption is appropriate; and

(2) is an air carrier under this part except to the extent the carrier is exempt under this section from a requirement of this part.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1119; Pub. L. 103-429, §6(49), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41103(a)	49 App.:1388(a)(4).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §418(a)(4); added Nov. 9, 1977, Pub. L. 95-163, §17(a), 91 Stat. 1285; Mar. 14, 1978, Pub. L. 95-245, §1, 92 Stat. 156.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
41103(b)	49 App.:1388(b)(1)(B).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §418(b)(1)(B); added Nov. 9, 1977, Pub. L. 95-163, §17(a), 91 Stat. 1285; Mar. 14, 1978, Pub. L. 95-245, §3, 92 Stat. 156.
41103(c)	49 App.:1551(b)(1)(E). 49 App.:1388(b)(2).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §418(b)(2), (c), (d); added Nov. 9, 1977, Pub. L. 95-163, §17(a), 91 Stat. 1285.
41103(d)(1) ..	49 App.:1551(b)(1)(E). 49 App.:1388(c).	
41103(d)(2) ..	49 App.:1551(b)(1)(E). 49 App.:1388(d).	

In subsection (a), the words “After the three hundred and sixty-fifth day which begins after November 9, 1977” are omitted as executed. The words “under this section” are omitted as surplus. The words “authorizing the citizen” are added for clarity and consistency in this chapter.

In subsection (b), the words “pursuant to paragraph (4) of subsection (a) of this section” are omitted as surplus. The word “citizen” is substituted for “applicant” for clarity and consistency because only a citizen of the United States may be an “air carrier” as defined in section 40102(a) of the revised title and only an air carrier can provide all-cargo air transportation. The words “to provide” are added for clarity and consistency in this subchapter. The word “rules” is omitted as being synonymous with “regulations”. The word “promulgated” is omitted as surplus.

In subsection (c), the words “reasonable”, “and limitations”, and “and conditions” are omitted as surplus. The word “places” is substituted for “points” for consistency in the revised title.

PUB. L. 103-429

This amends 49:41103(a) to make the term consistent throughout subtitle VII of title 49.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-429 substituted “all-cargo” for “all-property”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

§ 41104. Additional limitations and requirements of charter air carriers

(a) **RESTRICTIONS.**—The Secretary of Transportation may prescribe a regulation or issue an order restricting the marketability, flexibility, accessibility, or variety of charter air transportation provided under a certificate issued under section 41102 of this title only to the extent required by the public interest. A regulation prescribed or order issued under this subsection may not be more restrictive than a regulation related to charter air transportation that was in effect on October 1, 1978.

(b) **SCHEDULED OPERATIONS.**—

(1) **IN GENERAL.**—Except as provided in paragraphs (3) and (4), an air carrier, including an indirect air carrier, may not provide, in aircraft designed for more than 9 passenger seats, regularly scheduled charter air transportation, for which the public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flight, to or from an airport that—

(A) does not have an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation); or

(B) has an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation) if the airport—

(i) is a reliever airport (as defined in section 47102) and is designated as such in the national plan of integrated airports maintained under section 47103; and

(ii) is located within 20 nautical miles (22 statute miles) of 3 or more airports that each annually account for at least 1 percent of the total United States passenger enplanements and at least 2 of which are operated by the sponsor of the reliever airport.

(2) **DEFINITION.**—In this paragraph, the term “regularly scheduled charter air transportation” does not include operations for which the departure time, departure location, and arrival location are specifically negotiated with the customer or the customer’s representative.

(3) **EXCEPTION.**—This subsection does not apply to any airport in the State of Alaska or to any airport outside the United States.

(4) **WAIVERS.**—The Secretary may waive the application of paragraph (1)(B) in cases in

which the Secretary determines that the public interest so requires.

(c) ALASKA.—An air carrier holding a certificate issued under section 41102 of this title may provide charter air transportation between places in Alaska only to the extent the Secretary decides the transportation is required by public convenience and necessity. The Secretary may make that decision when issuing, amending, or modifying the certificate. This subsection does not apply to a certificate issued under section 41102 to a citizen of the United States who, before July 1, 1977—

(1) maintained a principal place of business in Alaska; and

(2) conducted air transport operations between places in Alaska with aircraft with a certificate for gross takeoff weight of more than 40,000 pounds.

(d) SUSPENSIONS.—(1) The Secretary shall suspend for not more than 30 days any part of the certificate of a charter air carrier if the Secretary decides that the failure of the carrier to comply with the requirements described in sections 41110(e) and 41112 of this title, or a regulation or order of the Secretary under section 41110(e) or 41112, requires immediate suspension in the interest of the rights, welfare, or safety of the public. The Secretary may act under this paragraph without notice or a hearing.

(2) The Secretary shall begin immediately a hearing to decide if the certificate referred to in paragraph (1) of this subsection should be amended, modified, suspended, or revoked. Until the hearing is completed, the Secretary may suspend the certificate for additional periods totaling not more than 60 days. If the Secretary decides that the carrier is complying with the requirements described in sections 41110(e) and 41112 of this title and regulations and orders under sections 41110(e) and 41112, the Secretary immediately may end the suspension period and proceeding begun under this subsection. However, the Secretary is not prevented from imposing a civil penalty on the carrier for violating the requirements described in section 41110(e) or 41112 or a regulation or order under section 41110(e) or 41112.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1120; Pub. L. 106–181, title VII, § 723, Apr. 5, 2000, 114 Stat. 165; Pub. L. 106–528, § 8(c), Nov. 22, 2000, 114 Stat. 2522; Pub. L. 108–176, title VIII, § 822, Dec. 12, 2003, 117 Stat. 2594.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41104(a)	49 App.:1371(n)(2), (4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(n)(2)–(4); added July 10, 1962, Pub. L. 87–528, § 4, 76 Stat. 144; restated Oct. 24, 1978, Pub. L. 95–504, § 20(b), 92 Stat. 1721.
	49 App.:1551(a)(1)(E) (related to 49 App.:1371(n)(4)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(1)(E) (related to § 401(n)(4)); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41104(b)	49 App.:1371(n)(3). 49 App.:1551(b)(1)(E).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41104(c)	49 App.:1371(n)(5).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(n)(5); added July 10, 1962, Pub. L. 87–528, § 4, 76 Stat. 145; Oct. 24, 1978, Pub. L. 95–504, § 20(c), 92 Stat. 1722.
	49 App.:1371(n)(6).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(n)(6); added July 10, 1962, Pub. L. 87–528, § 4, 76 Stat. 145.
	49 App.:1551(b)(1)(E).	

In subsection (a), the word “rule” is omitted as being synonymous with “regulation”. The words “charter air transportation” are substituted for “charter trips” for consistency in this part. The text of 49 App.:1371(n)(4) and 1551(n)(1)(E) (related to 49 App.:1371(n)(4)) is omitted because inclusive tour charters have been abolished and charter air carriers have received authority to sell public charter flights directly to the public.

In subsection (b), before clause (1), the words “Notwithstanding any other provision of this subchapter” are omitted as surplus. The words “An air carrier holding” are added for clarity. The words “State of” are omitted as surplus. The word “modifying” is added for consistency in the revised title. The words “citizen of the United States” are substituted for “person” for clarity and consistency because only a citizen of the United States may be an “air carrier” as defined in section 40102(a) of the revised title.

In subsection (c), the words “the requirements described in” are added for clarity.

In subsection (c)(1), the text of 49 App.:1371(n)(6) is omitted as surplus because of 49:322(a).

In subsection (c)(2), the word “amended” is added for consistency in the revised title.

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108–176, § 822(a), inserted a comma after “regularly scheduled charter air transportation”, substituted “paragraphs (3) and (4)” for “paragraph (3)” and “flight, to or from an airport that—” for “flight unless such air transportation is to and from an airport that has an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation).”, and added subpars. (A) and (B).

Subsec. (b)(4). Pub. L. 108–176, § 822(b), added par. (4). 2000—Subsec. (b). Pub. L. 106–181, § 723(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (b)(1). Pub. L. 106–528, § 8(c)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “An air carrier, including an indirect air carrier, which operates aircraft designed for more than nine passenger seats, may not provide regularly scheduled charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights to or from an airport that is not located in Alaska and that does not have an operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulations).”

Subsec. (b)(3). Pub. L. 106–528, § 8(c)(2), added par. (3). Subsecs. (c), (d). Pub. L. 106–181, § 723(1), redesignated subsecs. (b) and (c) as (c) and (d), respectively.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by Pub. L. 106–528 effective 30 days after Nov. 22, 2000, see section 9 of Pub. L. 106–528, set out as a note under section 106 of this title.

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of

Pub. L. 106-181, set out as a note under section 106 of this title.

§ 41105. Transfers of certificates

(a) GENERAL.—A certificate issued under section 41102 of this title may be transferred only when the Secretary of Transportation approves the transfer as being consistent with the public interest.

(b) CERTIFICATION TO CONGRESS.—When a certificate is transferred, the Secretary shall certify to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that the transfer is consistent with the public interest. The Secretary shall include with the certification a report analyzing the effects of the transfer on—

- (1) the viability of each carrier involved in the transfer;
- (2) competition in the domestic airline industry; and
- (3) the trade position of the United States in the international air transportation market.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1121; Pub. L. 104-287, §5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41105(a)	49 App.:1371(h)(1).	Aug. 23, 1958, Pub. L. 85-726, §401(h)(1), 72 Stat. 756; Nov. 5, 1990, Pub. L. 101-508, §9127(1), 104 Stat. 1388-371.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
41105(b)	49 App.:1371(h)(2), (3).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(h)(2), (3); added Nov. 5, 1990, Pub. L. 101-508, §9127(2), 104 Stat. 1388-371.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-287 substituted “Transportation and Infrastructure” for “Public Works and Transportation”.

§ 41106. Airlift service

(a) INTERSTATE TRANSPORTATION.—(1) Except as provided in subsection (d) of this section, the transportation of passengers or property by transport category aircraft in interstate air transportation obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service in the United States may be provided only by an air carrier that—

- (A) has aircraft in the civil reserve air fleet or offers to place the aircraft in that fleet; and
- (B) holds a certificate issued under section 41102 of this title.

(2) The Secretary of Transportation shall act as expeditiously as possible on an application for a certificate under section 41102 of this title to provide airlift service.

(b) TRANSPORTATION BETWEEN THE UNITED STATES AND FOREIGN LOCATIONS.—Except as provided in subsection (d), the transportation of passengers or property by transport category aircraft between a place in the United States and a place outside the United States obtained

by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier referred to in subsection (a).

(c) TRANSPORTATION BETWEEN FOREIGN LOCATIONS.—The transportation of passengers or property by transport category aircraft between two places outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier that has aircraft in the civil reserve air fleet whenever transportation by such an air carrier is reasonably available.

(d) EXCEPTION.—When the Secretary of Defense decides that no air carrier holding a certificate under section 41102 is capable of providing, and willing to provide, the airlift service, the Secretary of Defense may make a contract to provide the service with an air carrier not having a certificate.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1121; Pub. L. 106-398, §1 [[div. A], title III, §385(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-87.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41106	49 App.:1371(o).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(o); added July 12, 1976, Pub. L. 94-353, §18(a), 90 Stat. 883.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the word “passengers” is substituted for “persons” for consistency in the revised title. The words “Secretary of Defense” are substituted for “Department of Defense” because of 10:113(a). The words “an air carrier” are substituted for “carriers” for clarity.

In subsection (b), the words “to provide the service” are added for clarity.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-398, §1 [[div. A], title III, §385(a)(1), (b)], in heading substituted “Interstate Transportation” for “General” and in introductory provisions of par. (1), substituted “Except as provided in subsection (d) of this section,” for “Except as provided in subsection (b) of this section,” and struck out “of at least 31 days” after “through a contract”.

Subsecs. (b) to (d). Pub. L. 106-398, §1 [[div. A], title III, §385(a)(2), (3)], added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title III, §385(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-87, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 2000.”

§ 41107. Transportation of mail

When the United States Postal Service finds that the needs of the Postal Service require the transportation of mail by aircraft in foreign air transportation or between places in Alaska, in addition to the transportation of mail authorized under certificates in effect, the Postal Service shall certify that finding to the Secretary of Transportation with a statement about the additional transportation and facilities necessary to provide the additional transportation. A copy of

each certification and statement shall be posted for at least 20 days in the office of the Secretary. After notice and an opportunity for a hearing, the Secretary shall issue a new certificate under section 41102 of this title, or amend or modify an existing certificate under section 41110(a)(2)(A) of this title, to provide the additional transportation and facilities if the Secretary finds the additional transportation is required by the public convenience and necessity.

(Pub. L. 103-272, §§1(e), 4(k)(1), July 5, 1994, 108 Stat. 1121, 1370; Pub. L. 106-31, title VI, §6003, May 21, 1999, 113 Stat. 113.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272, §1(e)

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41107	49 App.:1371(m). 49 App.:1551(a)(4)(A) (related to 49 App.:1371(m)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, §401(m), 72 Stat. 757. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(4)(A) (related to §401(m)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(c), (e), 98 Stat. 1703, 1704.

The words “from time to time” are omitted as surplus. The words “United States Postal Service” and “Postal Service” are substituted for “Postmaster General” in section 401(m) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 757) because of sections 4(a) and 6(o) of the Postal Reorganization Act (Public Law 91-375, 84 Stat. 773, 783). The words “in foreign air transportation or between places in Alaska” are substituted for “between any points within the United States or between the United States and foreign countries” for consistency in the revised title and because 49 App.:1551(a)(4)(A) provides that 49 App.:1371(m) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). In addition, Congress did not intend to maintain the regulation of domestic air transportation of mail. See section 40102(a) of the revised title defining “air transportation” to mean interstate or foreign air transportation or the transportation of mail by aircraft. The word “currently” is omitted as surplus. The words “opportunity for a” are added for consistency in the revised title and with other titles of the United States Code. The words “or certificates” are omitted as surplus because of 1:1. The word “modify” is added for consistency in the revised title.

PUB. L. 103-272, §4(k)

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41107	49 App.:1551(a)(8). 49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(8); added Oct. 4, 1984, Pub. L. 98-443, §3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100-457, §346 (related to §1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(3); added Oct. 4, 1984, Pub. L. 98-443, §3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100-457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98-443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731), as added by section 3(f) of the

Civil Aeronautics Board Sunset Act of 1984 (Public Law 98-443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(l) and (m) and 1375(b)-(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901-41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

AMENDMENTS

1999—Pub. L. 106-31 repealed Pub. L. 103-272, §4(k). See 1994 Amendment note below.

1994—Pub. L. 103-272, §4(k)(1), which directed the amendment of this section by substituting “foreign air transportation,” for “foreign air transportation or between places in Alaska,” effective Jan. 1, 1999, was repealed by Pub. L. 106-31, §6003, effective Dec. 31, 1998.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-31, title VI, §6003, May 21, 1999, 113 Stat. 113, provided that the amendment made by section 6003 is effective Dec. 31, 1998.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 4(k) of Pub. L. 103-272 which provided that the amendments made by that section (amending this section and sections 41901, 41902, and 41903 of this title) were effective Jan. 1, 1999, was repealed by Pub. L. 106-31, title VI, §6003, May 21, 1999, 113 Stat. 113, effective Dec. 31, 1998.

§ 41108. Applications for certificates

(a) FORM, CONTENTS, AND PROOF OF SERVICE.—To be issued a certificate of public convenience and necessity under section 41102 of this title, a citizen of the United States must apply to the Secretary of Transportation. The application must—

- (1) be in the form and contain information required by regulations of the Secretary; and
- (2) be accompanied by proof of service on interested persons as required by regulations of the Secretary and on each community that may be affected by the issuance of the certificate.

(b) NOTICE, RESPONSE, AND ACTIONS ON APPLICATIONS.—(1) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the certificate. Not later than 90 days after the application is filed, the Secretary shall—

- (A) provide an opportunity for a public hearing on the application;
- (B) begin the procedure under section 41111 of this title; or
- (C) dismiss the application on its merits.

(2) An order of dismissal issued by the Secretary under paragraph (1)(C) of this subsection is a final order and may be reviewed judicially under section 46110 of this title.

(3) If the Secretary provides an opportunity for a hearing under paragraph (1)(A) of this subsection, an initial or recommended decision shall be issued not later than 150 days after the date the Secretary provides the opportunity. The Secretary shall issue a final order on the application not later than 90 days after the deci-

sion is issued. However, if the Secretary does not act within the 90-day period, the initial or recommended decision on an application to provide—

(A) interstate air transportation is a final order and may be reviewed judicially under section 46110 of this title; and

(B) foreign air transportation shall be submitted to the President under section 41307 of this title.

(4) If the Secretary acts under paragraph (1)(B) of this subsection, the Secretary shall issue a final order on the application not later than 180 days after beginning the procedure on the application.

(5) If a citizen applying for a certificate does not meet the procedural schedule adopted by the Secretary in a proceeding, the Secretary may extend the period for acting under paragraphs (3) and (4) of this subsection by a period equal to the period of delay caused by the citizen. In addition to an extension under this paragraph, an initial or recommended decision under paragraph (3) of this subsection may be delayed for not more than 30 days in extraordinary circumstances.

(c) **PROOF REQUIREMENTS.**—(1) A citizen applying for a certificate must prove that the citizen is fit, willing, and able to provide the transportation referred to in section 41102 of this title and to comply with this part.

(2) A person opposing a citizen applying for a certificate must prove that the transportation referred to in section 41102(b)(2) of this title is not consistent with the public convenience and necessity. The transportation is deemed to be consistent with the public convenience and necessity unless the Secretary finds, by a preponderance of the evidence, that the transportation is not consistent with the public convenience and necessity.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1121.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41108(a)	49 App.:1371(b).	Aug. 23, 1958, Pub. L. 85-726, §401(b), 72 Stat. 754; Oct. 24, 1978, Pub. L. 95-504, §6, 92 Stat. 1710.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
41108(b)	49 App.:1371(c).	Aug. 23, 1958, Pub. L. 85-726, 401(c), 72 Stat. 754; re-stated Oct. 24, 1978, Pub. L. 95-504, §7(a), 92 Stat. 1711.
	49 App.:1551(b)(1)(E).	
41108(c)	49 App.:1371(d)(9).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(d)(9); added Oct. 24, 1978, Pub. L. 95-504, §14, 92 Stat. 1719.
	49 App.:1551(b)(1)(E).	

In subsection (a), the words “of public convenience and necessity under section 41102 of this title” are added for clarity.

In subsection (b)(1), before clause (A), the words “give due notice thereof to the public by” are omitted as surplus. The word “response” is substituted for “protest or memorandum” to eliminate unnecessary words. The words “requested by such application” are omitted as surplus. Clause (A) is substituted for 49 App.:1371(c)(1)(A) for clarity and consistency. Clause

(B) is substituted for 49 App.:1371(c)(1)(B) to eliminate unnecessary words.

In subsection (b)(2), the words “An order of dismissal issued by the Secretary under paragraph (1)(C) of this subsection” are substituted for “Any order of dismissal of an application issued by the Board without setting such application for a hearing or beginning to make a determination with respect to such application under such simplified procedures” to eliminate unnecessary words.

In subsection (b)(3), before clause (A), the words “If the Secretary provides an opportunity for a hearing under paragraph (1)(A) of this subsection” are substituted for “If the Board determines that any application should be set for a public hearing under clause (A) of the second sentence of paragraph (1) of this subsection” to eliminate unnecessary words. The words “provides the opportunity” are substituted for “of such determination” for clarity. The words “for a certificate” are omitted as surplus. The words “to provide” are substituted for “to engage in” for consistency in the revised title.

In subsection (b)(4), the words “If the Secretary acts under paragraph (1)(B) of this subsection” are added for clarity. The words “after beginning the procedure on the application” are substituted for “after the Board begins to make a determination with respect to an application under the simplified procedures established by the Board in regulations pursuant to subsection (p) of this section” to eliminate unnecessary words.

In subsection (b)(5), the word “particular” is omitted as surplus. The words “by order” are omitted as surplus because of 5:ch. 5, subch. II.

In subsection (c)(1), the words “In any determination as to whether or not” are omitted as surplus. The word “provide” is substituted for “perform” for consistency in the revised title. The word “properly” is omitted as surplus. The word “comply” is substituted for “conform” for consistency in the revised title.

In subsection (c)(2), the words “In any determination as to whether” are omitted as surplus. The reference is to section 41102(b)(2), rather than 41102(a), of the revised title to reflect the termination of authority under 49 App.:1551(a)(1)(A).

§ 41109. Terms of certificates

(a) **GENERAL.**—(1) Each certificate issued under section 41102 of this title shall specify the type of transportation to be provided.

(2) The Secretary of Transportation—

(A) may prescribe terms for providing air transportation under the certificate that the Secretary finds may be required in the public interest; but

(B) may not prescribe a term preventing an air carrier from adding or changing schedules, equipment, accommodations, and facilities for providing the authorized transportation to satisfy business development and public demand.

(3) A certificate issued under section 41102 of this title to provide foreign air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each general route to be followed. The Secretary shall authorize an air carrier holding a certificate to provide foreign air transportation to handle and transport mail of countries other than the United States.

(4) A certificate issued under section 41102 of this title to provide foreign charter air transportation shall specify the places between which the air carrier is authorized to provide the

transportation only to the extent the Secretary considers practicable and otherwise only shall specify each geographical area in which, or between which, the transportation may be provided.

(5) As prescribed by regulation by the Secretary, an air carrier other than a charter air carrier may provide charter trips or other special services without regard to the places named or type of transportation specified in its certificate.

(b) MODIFYING TERMS.—(1) An air carrier may file with the Secretary an application to modify any term of its certificate issued under section 41102 of this title to provide interstate or foreign air transportation. Not later than 60 days after an application is filed, the Secretary shall—

(A) provide the carrier an opportunity for an oral evidentiary hearing on the record; or

(B) begin to consider the application under section 41111 of this title.

(2) The Secretary shall modify each term the Secretary finds to be inconsistent with the criteria under section 40101(a) and (b) of this title.

(3) An application under this subsection may not be dismissed under section 41108(b)(1)(C) of this title.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1123; Pub. L. 104-287, §5(70), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES PUB. L. 103-272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41109(a)(1) ..	49 App.:1371(e)(1) (words before semicolon).	Aug. 23, 1958, Pub. L. 85-726, §401(e)(1), 72 Stat. 755; restated July 10, 1962, Pub. L. 87-528, §3, 76 Stat. 143.
	49 App.:1551(a)(1)(C).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(1)(C); added Oct. 24, 1978, Pub. L. 95-504, §40(a), 92 Stat. 1744.
41109(a)(2) ..	49 App.:1371(e)(1) (words after semicolon).	Aug. 23, 1958, Pub. L. 85-726, §401(e)(3), (4), 72 Stat. 755; restated July 10, 1962, Pub. L. 87-528, §3, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95-504, §15(a), (b), 92 Stat. 1719.
	49 App.:1371(e)(4).	Aug. 23, 1958, Pub. L. 85-726, §401(e)(3), (4), 72 Stat. 755; restated July 10, 1962, Pub. L. 87-528, §3, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95-504, §15(a), (b), 92 Stat. 1719.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
41109(a)(3) ..	49 App.:1371(e)(2).	Aug. 23, 1958, Pub. L. 85-726, §401(e)(2), 72 Stat. 755; restated July 10, 1962, Pub. L. 87-528, §3, 76 Stat. 143; Feb. 15, 1980, Pub. L. 96-192, §5, 94 Stat. 37.
41109(a)(4) ..	49 App.:1551(b)(1)(E).	
	49 App.:1371(e)(3).	
	49 App.:1551(b)(1)(E).	
41109(b)	49 App.:1371(e)(7)(B).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(e)(7)(B); added Oct. 24, 1978, Pub. L. 95-504, §16, 92 Stat. 1720.
	49 App.:1551(b)(1)(E).	

In subsection (a)(1), the text of 49 App.:1371(e)(1) (words before semicolon related to terminal and intermediate points) is omitted as obsolete because of 49 App.:1551(a)(1)(C) and because interstate and overseas air transportation is no longer regulated. The words “type of” are added for clarity. The word “provided” is substituted for “rendered” for consistency in the revised title.

In subsection (a)(2), the words before clause (A) are added for clarity. Clause (A) is substituted for 49 App.:1371(e)(1) (words after semicolon) for clarity and

consistency and to eliminate unnecessary words. In clause (B), the words “may not prescribe a term preventing” are substituted for “No term, condition, or limitation of a certificate shall restrict the right” for clarity and consistency. The word “providing” is substituted for “performing” for consistency in the revised title.

In subsection (a)(3) and (4), the word “places” is substituted for “points”, and the word “provide” is substituted for “engage in”, for consistency in the revised title. The words “terminal and intermediate” are omitted as surplus. The words “between which the air carrier is authorized to provide the transportation” are added for clarity and consistency.

In subsection (a)(3), the words “or routes” are omitted because of 1:1. The words “The Secretary” are added for clarity.

In subsection (a)(4), the words “or areas” are omitted because of 1:1.

In subsection (b), the words “condition, or limitation” are omitted as being included in “term”.

In subsection (b)(1), before clause (A), the word “modify” is substituted for “removal or modification” to eliminate unnecessary words. The word “provide” is substituted for “engage in” for consistency in the revised title. In clause (A), the words “provide the carrier an opportunity” are substituted for “set such application” for consistency in the revised title and with other titles of the United States Code. In clause (B), the words “the simplified procedures established by the Board in regulations pursuant to” are omitted as surplus.

PUB. L. 104-287

This amends 49:41109(a) to clarify the restatement of 49 App.:1371(e) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 1123).

AMENDMENTS

1996—Subsec. (a)(5). Pub. L. 104-287 added par. (5).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

§ 41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates

(a) GENERAL.—(1) Each certificate issued under section 41102 of this title is effective from the date specified in it and remains in effect until—

(A) the Secretary of Transportation suspends or revokes the certificate under this section;

(B) the end of the period the Secretary specifies for an air carrier having a certificate of temporary authority issued under section 41102(a)(2) of this title; or

(C) the Secretary certifies that transportation is no longer being provided under a certificate.

(2) On application or on the initiative of the Secretary and after notice and an opportunity for a hearing or, except as provided in paragraph (4) of this subsection, under section 41111 of this title, the Secretary may—

(A) amend, modify, or suspend any part of a certificate if the Secretary finds the public convenience and necessity require amendment, modification, or suspension; and

(B) revoke any part of a certificate if the Secretary finds that the holder of the certificate intentionally does not comply with this chapter, sections 41308-41310(a), 41501, 41503,

41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742, chapter 419, subchapter II of chapter 421, and section 46301(b) of this title, a regulation or order of the Secretary under any of those provisions, or a term of its certificate.

(3) The Secretary may revoke a certificate under paragraph (2)(B) of this subsection only if the holder of the certificate does not comply, within a reasonable time the Secretary specifies, with an order to the holder requiring compliance.

(4) A certificate to provide foreign air transportation may not be amended, modified, suspended, or revoked under section 41111 of this title if the holder of the certificate requests an oral evidentiary hearing or the Secretary finds, under all the facts and circumstances, that the hearing is required in the public interest.

(b) ALL-CARGO AIR TRANSPORTATION.—The Secretary may order that a certificate issued under section 41103 of this title authorizing all-cargo air transportation is ineffective if, after notice and an opportunity for a hearing, the Secretary finds that the transportation is not provided to the minimum extent specified by the Secretary.

(c) FOREIGN AIR TRANSPORTATION.—(1) Notwithstanding subsection (a)(2)–(4) of this section, after notice and a reasonable opportunity for the affected air carrier to present its views, but without a hearing, the Secretary may suspend or revoke the authority of an air carrier to provide foreign air transportation to a place under a certificate issued under section 41102 of this title if the carrier—

(A) notifies the Secretary, under section 41734(a) of this title or a regulation of the Secretary, that it intends to suspend all transportation to that place; or

(B) does not provide regularly scheduled transportation to the place for 90 days immediately before the date the Secretary notifies the carrier of the action the Secretary proposes.

(2) Paragraph (1)(B) of this subsection does not apply to a place provided seasonal transportation comparable to the transportation provided during the prior year.

(d) TEMPORARY CERTIFICATES.—On application or on the initiative of the Secretary, the Secretary may—

(1) review the performance of an air carrier issued a certificate under section 41102(c) of this title on the basis that the air carrier will provide innovative or low-priced air transportation under the certificate; and

(2) amend, modify, suspend, or revoke the certificate or authority under subsection (a)(2) or (c) of this section if the air carrier has not provided, or is not providing, the transportation.

(e) CONTINUING REQUIREMENTS.—(1) To hold a certificate issued under section 41102 of this title, an air carrier must continue to be fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under

section 41102 of this title if the Secretary finds that the air carrier—

(A) is not fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

(B) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (A) of this paragraph.

(f) ILLEGAL IMPORTATION OF CONTROLLED SUBSTANCES.—The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the United States Government, shall reexamine immediately the fitness of an air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall amend, modify, suspend, or revoke the certificate of the carrier issued under this chapter.

(g) RESPONSES.—An interested person may file a response with the Secretary opposing or supporting the amendment, modification, suspension, or revocation of a certificate under subsection (a) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1123; Pub. L. 103–429, § 6(50), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41110(a)(1) ..	49 App.:1371(f).	Aug. 23, 1958, Pub. L. 85–726, § 401(f), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95–504, §§ 10(b), 17, 92 Stat. 1716, 1720.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41110(a)(2)–(4).	49 App.:1371(g)(1).	Aug. 23, 1958, Pub. L. 85–726, § 401(g), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95–504, § 18, 92 Stat. 1720; restated Feb. 15, 1980, Pub. L. 96–192, § 6, 94 Stat. 37.
41110(b)	49 App.:1551(b)(1)(E). 49 App.:1388(b)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 418(b)(4); added Nov. 9, 1977, Pub. L. 95–163, § 17(a), 91 Stat. 1285.
41110(c)	49 App.:1551(b)(1)(E). 49 App.:1371(g)(3).	
41110(d)	49 App.:1551(b)(1)(E). 49 App.:1371(d)(8) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(8) (last sentence); added Oct. 24, 1978, Pub. L. 95–504, § 13, 92 Stat. 1719.
	49 App.:1551(a)(1)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(1)(B); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
41110(e)	49 App.:1551(b)(1)(E). 49 App.:1371(r) (related to certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(r) (related to certificate); added Oct. 24, 1978, Pub. L. 95–504, § 20(d)(1), 92 Stat. 1722.
41110(f)	49 App.:1551(b)(1)(E). 49 App.:1371a (related to certificate).	Aug. 15, 1985, Pub. L. 99–88, § 100 (1st complete par. related to certificate on p. 352), 99 Stat. 352.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41110(g)	49 App.:1371(g)(2). 49 App.:1551(b)(1)(E).	

In subsection (a)(1)(C), the words “transportation is no longer being provided under a certificate” are substituted for “operation thereunder has ceased” and “operations thereunder have ceased” for clarity and consistency.

In subsections (a)(2) and (e), the words “opportunity for a” are added for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), before clause (A), the word “application” is substituted for “petition or complaint” for consistency in the revised title and with other titles of the Code and to eliminate unnecessary words. The words “except as provided in paragraph (4) of this subsection” are added for clarity. The words “the simplified procedures under” are omitted as surplus. In clause (A), the word “alter” is omitted as surplus. In clause (B), the reference to 49 App.:1372 is omitted from the cross-references of “this subchapter” because 49 App.:1372 is concerned with foreign air carrier permits and not relevant to air carrier certificate revocation. The word “rule” is omitted as being synonymous with “regulation”. The words “condition, or limitation” are omitted as surplus.

In subsection (a)(3), the words “to the provision, or to the order (other than an order issued in accordance with this sentence), rule, regulation, term, condition, or limitation found by the Board to have been violated” are omitted as surplus.

In subsection (a)(4), the word “provide” is substituted for “engage in” for consistency in the revised title. The words “altered” and “the simplified procedures of” are omitted as surplus.

In subsection (b), the words “to the extent of such service” are omitted as surplus. The word “provided” is substituted for “performed” for consistency in the revised title.

In subsection (c)(1), the word “place” is substituted for “point” for consistency in the revised title. In clause (A), the cross-reference is to section 41734(a) of the revised title for clarity because 49 App.:1371(j) is obsolete. The comparable provision is 49 App.:1389(b)(2), restated as section 41734(a). The words “provided by that carrier” are omitted as surplus. In clause (B), the word “immediately” is added for clarity.

In subsection (d)(2), the words “alter” and “the procedures prescribed in” are omitted as surplus.

In subsections (e) and (f)(2), the word “amend” is added for consistency.

In subsection (e), before clause (1), the words “The requirement that each applicant for a certificate or any other authority . . . shall be a continuing requirement applicable to each such air carrier with respect to the transportation authorized by the Board” are omitted as surplus. The words “by order” are omitted as unnecessary because of 5:ch. 5, subch. II. In clause (1), the word “provide” is substituted for “perform” for consistency in the revised title. The word “properly” is omitted as surplus. The word “comply” is substituted for “conform to” for consistency in the revised title. The word “rules” is omitted as being synonymous with “regulations”. The word “requirements” is omitted as surplus.

In subsection (f), before clause (1), the words “Notwithstanding any other provision of law” are omitted as surplus. The words “on and after August 15, 1985” are omitted as executed. In clause (1), before subclause (A), the words “law enforcement and other” are omitted as surplus. The words “departments, agencies, and instrumentalities of the United States Government” are substituted for “agencies” for consistency in the revised title and with other titles of the Code. The words “an air carrier” are substituted for “any carrier” for clarity. In clause (2), the words “of public convenience and

necessity” are omitted as surplus. The words “issued under this chapter” are added for clarity.

In subsection (g), the word “response” is substituted for “protest or memorandum” to eliminate unnecessary words. The word “alteration” is omitted as surplus.

PUB. L. 103-429

This amends 49:4110(e) to clarify the restatement of 49 App.:1371(r) (related to certificate) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 1124).

AMENDMENTS

1994—Subsec. (e). Pub. L. 103-429 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

“(1) is not fit, willing, and able to continue to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

“(2) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (1) of this subsection.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

§41111. Simplified procedure to apply for, amend, modify, suspend, and transfer certificates

(a) GENERAL REQUIREMENTS.—(1) The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(A) acting on an application for a certificate to provide air transportation under section 41102 of this title; and

(B) amending, modifying, suspending, or transferring any part of that certificate under section 41105 or 41110(a) or (c) of this title.

(2) Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(b) WHEN SIMPLIFIED PROCEDURE USED.—The Secretary may use the simplified procedure to act on an application for a certificate to provide air transportation under section 41102 of this title, or to amend, modify, suspend, or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title, when the Secretary decides the use of the procedure is in the public interest.

(c) CONTENTS.—(1) To the extent the Secretary finds practicable, regulations under this section shall include each standard the Secretary will apply when—

(A) deciding whether to use the simplified procedure; and

(B) making a decision on an action in which the procedure is used.

(2) The regulations may provide that written evidence and argument may be filed under section 41108(b) of this title as a part of a response opposing or supporting the issuance of a certificate.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1125.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
4111(a)	49 App.:1371(p)(1) (1st, 2d sentences).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(p); added Oct. 24, 1978, Pub. L. 95-504, §21(a)(1), 92 Stat. 1723.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
4111(b)	49 App.:1371(p)(2) (1st sentence).	
	49 App.:1551(b)(1)(E).	
4111(c)	49 App.:1371(p)(1) (last sentence), (2) (last sentence).	
	49 App.:1551(b)(1)(E).	

In this section, the words “acting on” and “act on” are substituted for “disposition of” for consistency.

In subsection (a)(1)(A), the word “provide” is substituted for “engage in” for consistency in the revised title.

In subsection (a)(1)(B), the word “alteration” is omitted as surplus.

In subsection (a)(2), the word “adequate” is omitted as surplus.

In subsection (b), the words “to act on an application for a certificate to provide air transportation under section 41102 of this title, or to amend, modify, suspend, or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title” are added for clarity.

In subsection (c)(2), the words “by such person” are omitted as surplus. The words “a response opposing or supporting the issuance of a certificate” are substituted for “a protest or memorandum filed with respect to such application” for consistency.

§ 41112. Liability insurance and financial responsibility

(a) **LIABILITY INSURANCE.**—The Secretary of Transportation may issue a certificate to a citizen of the United States to provide air transportation as an air carrier under section 41102 of this title only if the citizen complies with regulations and orders of the Secretary governing the filing of an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the certificate. A certificate does not remain in effect unless the carrier complies with this subsection.

(b) **FINANCIAL RESPONSIBILITY.**—To protect passengers and shippers using an aircraft operated by an air carrier issued a certificate under section 41102 of this title, the Secretary may require the carrier to file a performance bond or equivalent security in the amount and on terms the Secretary prescribes. The bond or security must be sufficient to ensure the carrier adequately will pay the passengers and shippers when the transportation the carrier agrees to provide is not provided. The Secretary shall prescribe the amounts to be paid under this subsection.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41112	49 App.:1371(q).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(q); added Oct. 24, 1978, Pub. L. 95-504, §20(d)(1), 92 Stat. 1722.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.

In subsection (a), the words “citizen of the United States” and “citizen” are substituted for “applicant for such certificate or the air carrier” for clarity and consistency because only a citizen of the United States may be an “air carrier” as defined in section 40102(a) of the revised title and receive a certificate. The words “as the case may be” are omitted as surplus. The words “to provide air transportation as an air carrier under section 41102 of this title” are added for clarity. The words “approved by the Secretary” are substituted for “governing the filing and approval . . . in the amount prescribed by the Board” to eliminate unnecessary words. The words “The policy or plan must be sufficient to pay” are substituted for “which are conditioned to pay . . . amounts” for clarity. The words “for which such applicant or such air carrier may become liable for” are omitted as surplus.

In subsection (b), the word “passengers” is substituted for “travelers” for consistency in this chapter. The words “issued . . . under section 41102 of this title” are added for clarity. The word “arrangement” is omitted as surplus. The word “provide” is substituted for “perform” for consistency in the revised title.

§ 41113. Plans to address needs of families of passengers involved in aircraft accidents

(a) **SUBMISSION OF PLANS.**—Each air carrier holding a certificate of public convenience and necessity under section 41102 of this title shall submit to the Secretary and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any aircraft accident involving an aircraft of the air carrier and resulting in a major loss of life.

(b) **CONTENTS OF PLANS.**—A plan to be submitted by an air carrier under subsection (a) shall include, at a minimum, the following:

(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1136(a)(2) of this title or the services of other suitably trained individuals.

(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the air carrier has verified that the passenger was aboard the aircraft (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

(4) An assurance that the air carrier will provide to the director of family support services designated for the accident under section 1136(a)(1) of this title, and to the organization designated for the accident under section 1136(a)(2) of this title, immediately upon request, a list (which is based on the best avail-

able information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), and will periodically update the list.

(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the air carrier.

(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the air carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

(7) An assurance that any unclaimed possession of a passenger within the control of the air carrier will be retained by the air carrier for at least 18 months.

(8) An assurance that the family of each passenger will be consulted about construction by the air carrier of any monument to the passengers, including any inscription on the monument.

(9) An assurance that the treatment of the families of nonrevenue passengers (and any other victim of the accident) will be the same as the treatment of the families of revenue passengers.

(10) An assurance that the air carrier will work with any organization designated under section 1136(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

(11) An assurance that the air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) of this title for services provided by the organization.

(12) An assurance that the air carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

(13) An assurance that the air carrier will commit sufficient resources to carry out the plan.

(14) An assurance that, upon request of the family of a passenger, the air carrier will inform the family of whether the passenger's name appeared on a preliminary passenger manifest for the flight involved in the accident.

(15) An assurance that the air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

(16) An assurance that the air carrier, in the event that the air carrier volunteers assistance to United States citizens within the United States with respect to an aircraft accident outside the United States involving major loss of life, will consult with the Board and the Department of State on the provision of the assistance.

(17)(A) An assurance that, in the case of an accident that results in significant damage to a manmade structure or other property on the ground that is not government-owned, the air

carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

(B) At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by air carrier representatives about compensation by the air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

(18) An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the air carrier's flight if that city is located in the United States.

(c) **CERTIFICATE REQUIREMENT.**—The Secretary may not approve an application for a certificate of public convenience and necessity under section 41102 of this title unless the applicant has included as part of such application a plan that meets the requirements of subsection (b).

(d) **LIMITATION ON LIABILITY.**—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the air carrier in preparing or providing a passenger list, or in providing information concerning a preliminary passenger manifest, pursuant to a plan submitted by the air carrier under subsection (b), unless such liability was caused by conduct of the air carrier which was grossly negligent or which constituted intentional misconduct.

(e) **AIRCRAFT ACCIDENT AND PASSENGER DEFINED.**—In this section, the terms “aircraft accident” and “passenger” have the meanings such terms have in section 1136 of this title.

(f) **STATUTORY CONSTRUCTION.**—Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.

(Added Pub. L. 104-264, title VII, § 703(a), Oct. 9, 1996, 110 Stat. 3267; amended Pub. L. 106-181, title IV, § 402(a)(1)–(3), (5)–(c), Apr. 5, 2000, 114 Stat. 129, 130; Pub. L. 108-176, title VIII, § 809(a), Dec. 12, 2003, 117 Stat. 2588.)

AMENDMENTS

2003—Subsec. (b)(16). Pub. L. 108-176, § 809(a)(1), struck out “the air carrier” after “major loss of life.”

Subsec. (b)(17), (18). Pub. L. 108-176, § 809(a)(2), added pars. (17) and (18).

2000—Subsec. (a). Pub. L. 106-181, § 402(a)(5)(A), substituted “Each air carrier” for “Not later than 6 months after the date of the enactment of this section, each air carrier”.

Subsec. (b)(14) to (16). Pub. L. 106-181, § 402(a)(1)–(3), added pars. (14) to (16).

Subsec. (c). Pub. L. 106-181, § 402(a)(5)(B), substituted “The Secretary” for “After the date that is 6 months after the date of the enactment of this section, the Secretary”.

Subsec. (d). Pub. L. 106-181, § 402(b), inserted “, or in providing information concerning a preliminary passenger manifest,” before “pursuant to a plan”.

Subsec. (f). Pub. L. 106-181, § 402(c), added subsec. (f).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 402(a)(5)(B) to (c) of Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

Pub. L. 106-181, title IV, § 402(a)(4), Apr. 5, 2000, 114 Stat. 130, provided that: “The amendments made by paragraphs (1), (2), and (3) [amending this section] shall take effect on the 180th day following the date of the enactment of this Act [Apr. 5, 2000]. On or before such 180th day, each air carrier holding a certificate of public convenience and necessity under section 41102 of title 49, United States Code, shall submit to the Secretary [of Transportation] and the Chairman of the National Transportation Safety Board an updated plan under section 41113 of such title that meets the requirements of the amendments made by paragraphs (1), (2), and (3).”

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

UPDATE PLANS

Pub. L. 108-176, title VIII, § 809(c), Dec. 12, 2003, 117 Stat. 2589, provided that: “Air carriers and foreign air carriers shall update their plans under sections 41113 and 41313 of title 49, United States Code, respectively, to reflect the amendments made by subsections (a) and (b) of this section [amending this section and section 41313 of this title] not later than 90 days after the date of enactment of this Act [Dec. 12, 2003].”

ESTABLISHMENT OF TASK FORCE

Section 704 of Pub. L. 104-264 provided that:

“(a) **ESTABLISHMENT.**—The Secretary of Transportation, in cooperation with the National Transportation Safety Board, the Federal Emergency Management Agency, the American Red Cross, air carriers, and families which have been involved in aircraft accidents shall establish a task force consisting of representatives of such entities and families, representatives of air carrier employees, and representatives of such other entities as the Secretary considers appropriate.

“(b) **GUIDELINES AND RECOMMENDATIONS.**—The task force established pursuant to subsection (a) shall develop—

“(1) guidelines to assist air carriers in responding to aircraft accidents;

“(2) recommendations on methods to ensure that attorneys and representatives of media organizations do not intrude on the privacy of families of passengers involved in an aircraft accident;

“(3) recommendations on methods to ensure that the families of passengers involved in an aircraft accident who are not citizens of the United States receive appropriate assistance;

“(4) recommendations on methods to ensure that State mental health licensing laws do not act to prevent out-of-state mental health workers from work-

ing at the site of an aircraft accident or other related sites;

“(5) recommendations on the extent to which military experts and facilities can be used to aid in the identification of the remains of passengers involved in an aircraft accident; and

“(6) recommendations on methods to improve the timeliness of the notification provided by air carriers to the families of passengers involved in an aircraft accident, including—

“(A) an analysis of the steps that air carriers would have to take to ensure that an accurate list of passengers on board the aircraft would be available within 1 hour of the accident and an analysis of such steps to ensure that such list would be available within 3 hours of the accident;

“(B) an analysis of the added costs to air carriers and travel agents that would result if air carriers were required to take the steps described in subparagraph (A);

“(C) an analysis of any inconvenience to passengers, including flight delays, that would result if air carriers were required to take the steps described in subparagraph (A); and

“(D) an analysis of the implications for personal privacy that would result if air carriers were required to take the steps described in subparagraph (A).

“(c) **REPORT.**—Not later than 1 year after the date of the enactment of this Act [Oct. 9, 1996], the Secretary shall transmit to Congress a report containing the model plan and recommendations developed by the task force under subsection (b).”

LIMITATION ON STATUTORY CONSTRUCTION

Section 705 of title VII of Pub. L. 104-264 provided that: “Nothing in this title [enacting this section and section 1136 of this title, amending section 1155 of this title, and enacting provisions set out as notes under this section and section 40101 of this title] or any amendment made by this title may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.”

CHAPTER 413—FOREIGN AIR TRANSPORTATION

Sec.	
41301.	Requirement for a permit.
41302.	Permits of foreign air carriers.
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AMENDMENTS

1997—Pub. L. 105-148, § 1(b), Dec. 16, 1997, 111 Stat. 2683, added item 41313.

1994—Pub. L. 103-429, § 6(51)(B), Oct. 31, 1994, 108 Stat. 4385, added item 41312.

Pub. L. 103-305, title II, § 205(a)(2), Aug. 23, 1994, 108 Stat. 1583, added item 41311.

§ 41301. Requirement for a permit

A foreign air carrier may provide foreign air transportation only if the foreign air carrier

holds a permit issued under this chapter authorizing the foreign air transportation.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41301	49 App.:1372(a).	Aug. 23, 1958, Pub. L. 85-726, §402(a), 72 Stat. 757.

The word “provide” is substituted for “engage in” for consistency in the revised title. The word “holds” is substituted for “there is in force” to eliminate unnecessary words.

§ 41302. Permits of foreign air carriers

The Secretary of Transportation may issue a permit to a person (except a citizen of the United States) authorizing the person to provide foreign air transportation as a foreign air carrier if the Secretary finds that—

(1) the person is fit, willing, and able to provide the foreign air transportation to be authorized by the permit and to comply with this part and regulations of the Secretary; and

(2)(A) the person is qualified, and has been designated by the government of its country, to provide the foreign air transportation under an agreement with the United States Government; or

(B) the foreign air transportation to be provided under the permit will be in the public interest.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1126.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41302	49 App.:1372(b).	Aug. 23, 1958, Pub. L. 85-726, §402(b), 72 Stat. 758; re-stated Feb. 15, 1980, Pub. L. 96-192, §7, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the words “person (except a citizen of the United States)” and “person” are substituted for “applicant” for clarity and consistency because only a person other than a United States citizen may be a “foreign air carrier” as defined in section 40102(a) of the revised title. In clauses (1) and (2), the word “provide” is substituted for “perform” for consistency in the revised title. In clause (1), the word “properly” is omitted as surplus. The word “comply” is substituted for “conform” for consistency in the revised title. The word “rules” is omitted as being synonymous with “regulations”. The word “requirements” is omitted as surplus. In clause (2)(A), the words “government of its country” are substituted for “its government” for consistency in the revised title and with other titles of the United States Code.

§ 41303. Transfers of permits

A permit issued under section 41302 of this title may be transferred only when the Secretary of Transportation approves the transfer because the transfer is in the public interest.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41303	49 App.:1372(g).	Aug. 23, 1958, Pub. L. 85-726, §402(g), 72 Stat. 758.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.

§ 41304. Effective periods and amendments, modifications, suspensions, and revocations of permits

(a) GENERAL.—The Secretary of Transportation may prescribe the period during which a permit issued under section 41302 of this title is in effect. After notice and an opportunity for a hearing, the Secretary may amend, modify, suspend, or revoke the permit if the Secretary finds that action to be in the public interest.

(b) SUSPENSIONS AND RESTRICTIONS.—Without a hearing, but subject to the approval of the President, the Secretary—

(1) may suspend summarily the permits of foreign air carriers of a foreign country, or amend, modify, or limit the operations of the foreign air carriers under the permits, when the Secretary finds—

(A) the action is in the public interest; and

(B) the government, an aeronautical authority, or a foreign air carrier of the foreign country, over the objection of the United States Government, has—

(i) limited or denied the operating rights of an air carrier; or

(ii) engaged in unfair, discriminatory, or restrictive practices that have a substantial adverse competitive impact on an air carrier related to air transportation to, from, through, or over the territory of the foreign country; and

(2) to make this subsection effective, may restrict operations between the United States and the foreign country by a foreign air carrier of a third country.

(c) ILLEGAL IMPORTATION OF CONTROLLED SUBSTANCES.—The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the Government, shall reexamine immediately the fitness of a foreign air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall amend, modify, suspend, or revoke the permit of the carrier issued under this chapter.

(d) RESPONSES.—An interested person may file a response with the Secretary opposing or supporting the amendment, modification, suspension, or revocation of a permit under subsection (a) of this section.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41304(a)	49 App.:1372(e) (related to duration of permits).	Aug. 23, 1958, Pub. L. 85-726, §402(e) (related to duration of permits), 72 Stat. 758.
	49 App.:1372(f)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, §402(f)(1), 72 Stat. 758; Feb. 15, 1980, Pub. L. 96-192, §9, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
41304(b)	49 App.:1372(f)(2).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §402(f)(2); added Feb. 15, 1980, Pub. L. 96-192, §9, 94 Stat. 38.
41304(c)	49 App.:1551(b)(1)(E). 49 App.:1371a (related to permit).	Aug. 15, 1985, Pub. L. 99-88, §100 (1st complete par. related to permit on p. 352), 99 Stat. 352.
41304(d)	49 App.:1372(f)(1) (last sentence). 49 App.:1551(b)(1)(E).	

In subsection (a), the words “altered” and “cancelled” are omitted as surplus.

In subsection (b)(1), before clause (A), the words “alter” and “condition” are omitted as surplus. In clause (B)(i) and (ii), the words “United States” before “air carriers” and “carriers” are omitted as surplus and for consistency because only a citizen of the United States may be an “air carrier” as defined in section 40102(a) of the revised title. In clause (B)(i), the word “impaired” is omitted as surplus.

In subsection (c), before clause (1), the words “Notwithstanding any other provision of law” are omitted as surplus. The words “on and after August 15, 1985” are omitted as executed. In clause (1), before subclause (A), the words “law enforcement and other” are omitted as surplus. The words “departments, agencies, and instrumentalities of the Government” are substituted for “agencies” for consistency in the revised title and with other titles of the Code. The words “a foreign air carrier” are substituted for “any carrier” for clarity. In clause (2), the words “of public convenience and necessity” are omitted as surplus. The word “amend” is added for consistency. The words “issued under this chapter” are added for clarity.

In subsection (d), the word “response” is substituted for “protest or memorandum” to eliminate unnecessary words. The words “alteration” and “cancellation” are omitted as surplus.

§ 41305. Applications for permits

(a) FORM, CONTENTS, NOTICE, RESPONSE, AND ACTIONS ON APPLICATIONS.—(1) A person must apply in writing to the Secretary of Transportation to be issued a permit under section 41302 of this title. The Secretary shall prescribe regulations to require that the application be—

- (A) verified;
- (B) in a certain form and contain certain information;
- (C) served on interested persons; and
- (D) accompanied by proof of service on those persons.

(2) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the permit. The Secretary shall act on an application as expeditiously as possible.

(b) TERMS.—The Secretary may impose terms for providing foreign air transportation under

the permit that the Secretary finds may be required in the public interest.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1127.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41305(a)(1) ..	49 App.:1372(c).	Aug. 23, 1958, Pub. L. 85-726, §402(c), (e) (related to terms, conditions, or limitations of permits), 72 Stat. 758.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
41305(a)(2) ..	49 App.:1372(d).	Aug. 23, 1958, Pub. L. 85-726, §402(d), 72 Stat. 758; Feb. 15, 1980, Pub. L. 96-192, §8, 94 Stat. 38.
41305(b)	49 App.:1551(b)(1)(E). 49 App.:1372(e) (related to terms, conditions, or limitations of permits). 49 App.:1551(b)(1)(E).	

In subsection (a)(1), before clause (A), the words “A person must apply . . . to the Secretary of Transportation to be issued a permit under section 41302 of this title” are added for clarity. Clause (C) is added for clarity.

In subsection (a)(2), the words “give due notice thereof to the public by” are omitted as surplus. The word “response” is substituted for “protest or memorandum” to eliminate unnecessary words. The word “expeditiously” is substituted for “speedily” for consistency in this chapter.

In subsection (b), the words “reasonable” and “conditions, or limitations” are omitted as surplus. The words “for providing foreign air transportation” are added for clarity.

§ 41306. Simplified procedure to apply for, amend, modify, and suspend permits

(a) REGULATIONS.—The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

- (1) acting on an application for a permit to provide foreign air transportation under section 41302 of this title; and
- (2) amending, modifying, or suspending any part of that permit under section 41304(a) or (b) of this title.

(b) NOTICE AND OPPORTUNITY TO RESPOND.—Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41306(a)	49 App.:1372(h) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §402(h); added Oct. 24, 1978, Pub. L. 95-504, §21(b)(1), 92 Stat. 1723.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
41306(b)	49 App.:1372(h) (last sentence).	

In subsection (a)(1), the words “acting on” are substituted for “disposition of” for consistency. The word

“provide” is substituted for “engage in” for consistency in the revised title.

In subsection (a)(2), the word “alteration” is omitted as surplus. The word “transfer” is omitted because 49 App.:1372(f) does not cover transfer of a permit.

In subsection (b), the word “adequate” is omitted as surplus.

§ 41307. Presidential review of actions about foreign air transportation

The Secretary of Transportation shall submit to the President for review each decision of the Secretary to issue, deny, amend, modify, suspend, revoke, or transfer a certificate issued under section 41102 of this title authorizing an air carrier, or a permit issued under section 41302 of this title authorizing a foreign air carrier, to provide foreign air transportation. The President may disapprove the decision of the Secretary only if the reason for disapproval is based on foreign relations or national defense considerations that are under the jurisdiction of the President. The President may not disapprove a decision of the Secretary if the reason is economic or related to carrier selection. A decision of the Secretary—

(1) is void if the President disapproves the decision and publishes the reasons (to the extent allowed by national security) for disapproval not later than 60 days after it is submitted to the President; or

(2)(A) takes effect as a decision of the Secretary if the President does not disapprove the decision not later than 60 days after the decision is submitted to the President; and

(B) when effective, may be reviewed judicially under section 46110 of this title.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41307	49 App.:1461(a).	Aug. 23, 1958, Pub. L. 85-726, §801(a), 72 Stat. 782; Mar. 22, 1972, Pub. L. 92-259, §2, 86 Stat. 96; restated Oct. 24, 1978, Pub. L. 95-504, §34, 92 Stat. 1740.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the word “cancellation” is omitted as surplus. The word “modify” is added for consistency. The words “and the terms, conditions, and limitations contained in” are omitted as surplus. The words “issued under section 41102 of this title” are added for clarity. The word “provide” is substituted for “engage in” for consistency in the revised title. In clause (1), the words “null and” are omitted as surplus. The word “publishes” is substituted for “issued in a public document” to eliminate unnecessary words. In clause (2)(A), the words “not the President” are omitted as surplus.

EXECUTIVE ORDER NO. 11920

Ex. Ord. No. 11920, June 10, 1976, 41 F.R. 23665, which provided for establishment of Executive branch procedures to facilitate review of submitted decisions, was revoked by Ex. Ord. No. 12547, Feb. 6, 1986, 51 F.R. 5029.

EXECUTIVE ORDER NO. 12547

Ex. Ord. No. 12547, Feb. 6, 1986, 51 F.R. 5029, which provided for establishment of procedures to facilitate

Presidential review of international aviation decisions submitted by Department of Transportation, was revoked by Ex. Ord. No. 12597, May 13, 1987, 52 F.R. 18335, set out below.

EX. ORD. NO. 12597. ESTABLISHING PROCEDURES FOR FACILITATING PRESIDENTIAL REVIEW OF INTERNATIONAL AVIATION DECISIONS BY THE DEPARTMENT OF TRANSPORTATION

Ex. Ord. No. 12597, May 13, 1987, 52 F.R. 18335, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 801 of the Federal Aviation Act, as amended (49 U.S.C. app. §1461) [see 49 U.S.C. 41307, 41509(f)], and in order to provide presidential guidance to department and agency heads and facilitate presidential review of decisions by the Department of Transportation pursuant to the Federal Aviation Act [see 49 U.S.C. 40101 et seq.], it is hereby ordered as follows:

SECTION 1. Executive Order No. 12547 of February 6, 1986, is revoked.

SEC. 2. The Secretary of Transportation is designated and empowered to receive on behalf of the President any decision of the Department of Transportation (hereinafter referred to as the “DOT”) subject to Section 801 of the Federal Aviation Act, as amended. The Secretary of Transportation is further designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority of the President under Section 801 of the Federal Aviation Act, as amended, to review and determine not to disapprove any such decision that is not the subject of any written recommendation for disapproval or for a statement of reasons submitted to the Department of Transportation in accordance with section 5(b) of this Order.

SEC. 3. (a) Except as otherwise provided in this section, decisions of the DOT subject to Section 801 of the Federal Aviation Act, as amended, may be made available by the DOT for public inspection and copying following transmission to Executive departments and agencies pursuant to section 3(c) of this Order.

(b) In the interests of national security, and in order to allow for consideration of appropriate action under Executive Order No. 12356 [50 U.S.C. 435 note], decisions of the DOT transmitted to Executive departments and agencies pursuant to section 3(c) of this Order shall be withheld from public disclosure for a period not to exceed 5 days after said transmission.

(c) At the same time that decisions of the DOT are received by the Secretary of Transportation pursuant to section 2 of this Order, the DOT shall transmit copies thereof to the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Attorney General, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and any other Executive department or agency that the DOT deems appropriate.

(d) The Secretary of State and the Secretary of Defense, or their designees, shall review the decisions of the DOT transmitted pursuant to section 3(c) of this Order and shall promptly advise the Assistant to the President for National Security Affairs or his designee whether action pursuant to Executive Order No. 12356 is deemed appropriate. If, after considering these recommendations, the Assistant to the President for National Security Affairs determines that classification under Executive Order No. 12356 is appropriate, he shall take such action and immediately so inform the DOT. Action pursuant to this subsection shall be completed by the persons designated herein within 5 days of the transmission of the decision.

(e) On and after the 6th day following transmission of a DOT decision pursuant to section 3(c) of this Order, or upon earlier notification by the Assistant to the President for National Security Affairs or his designee, the DOT is authorized to disclose all unclassified portions of the text of such decision. Nothing in this section is intended to affect the ability to withhold material under any Executive order or statute other than Section 801.

SEC. 4. (a) Departments and agencies outside of the Executive Office of the President shall raise only matters of national defense or foreign relations in the course of the presidential review established by this Order. All other matters, including those related to regulatory policy, shall be presented to the DOT in accordance with the procedures of the DOT.

(b) Departments and agencies outside of the Executive Office of the President that identify matters of national defense or foreign relations while a decision is pending before the DOT shall, except as confidentiality is required for reasons of defense or foreign policy, make those matters known to the DOT in the course of its proceedings.

SEC. 5. (a) The DOT shall receive the recommendations, addressed to the President, of the departments and agencies referred to in section 3(c) of this Order.

(b) Departments or agencies outside of the Executive Office of the President making recommendations on matters of national defense or foreign relations with respect to any decision received by the Secretary of Transportation under section 2 of this Order shall submit their recommendations in writing to the DOT: (1) within 4 days of the DOT's issuance of a decision subject to a 10-day statutory review period under Section 801(b) [see 49 U.S.C. 41509(f)]; and (2) within 21 days of the DOT's issuance of a decision subject to a 60-day statutory review period under Section 801(a) [see 49 U.S.C. 41307]; or (3) in exceptional cases, within the period specified by the DOT in its letter of transmittal.

(c) The DOT shall, as soon as practical after the deadlines specified in section 5(b) of this Order: (1) if no recommendations for disapproval or for a statement of reasons are received from the departments and agencies specified in section 3(c) of this Order, issue its decision to become effective according to its terms; or (2) if recommendations for disapproval or for a statement of reasons are received, transmit them to the Assistant to the President for National Security Affairs, who, upon review, shall transmit a memorandum to the President with a recommendation as to whether or not the President should disapprove the proposed decision.

SEC. 6. (a) In advising the President with respect to his review of a decision pursuant to Section 801, departments and agencies outside of the Executive Office of the President shall identify with particularity the defense or foreign policy implications of the DOT decision that are deemed appropriate for consideration.

(b) If any department or agency that made recommendations to the President pursuant to Section 801 believes that, if the President decides not to disapprove a decision, the letter so advising the DOT should include a statement that the decision not to disapprove was based on national defense or foreign relations reasons, it should so indicate separately and explain why.

SEC. 7. Individuals within the Executive Office of the President shall follow a policy of: (a) refusing to discuss matters relating to the disposition of a case subject to the review of the President under Section 801 with any interested private party, or an attorney or agent for any such party, prior to the decision by the President or his designee; and (b) referring any written communication from an interested private party, or an attorney or agent for any such party, to the appropriate department or agency outside of the Executive Office of the President. Exceptions to this policy may be made only when the head of an appropriate department or agency outside of the Executive Office of the President personally finds, on a nondelegable basis, that direct written or oral communication between a private party and a person within the Executive Office of the President is needed for reasons of defense or foreign policy.

SEC. 8. Departments and agencies outside of the Executive Office of the President that regularly make recommendations in connection with the presidential review pursuant to Section 801 shall, consistent with applicable law, including the provisions of Chapter 5 of Title 5 of the United States Code:

(a) establish public dockets for all written communications (other than those requiring confidential

treatment for defense or foreign policy reasons) between their officers and employees and private parties in connection with the preparation of such recommendations; and

(b) prescribe such other procedures governing oral and written communications as they deem appropriate.

SEC. 9. This Order is intended solely for the internal guidance of the departments and agencies in order to facilitate the presidential review process. This Order does not confer rights on any private parties.

SEC. 10. None of the time deadlines specified in this Order shall be construed as a limitation on expedited presidential review of any decision under Section 801.

SEC. 11. The provisions of this Order shall become effective upon publication in the Federal Register and shall govern the review of any proposed decisions of the DOT that have not become final prior to that date under Executive Order No. 12547.

SEC. 12. References in any Executive order to any provision in Executive Order No. 12547 shall be deemed to refer to the corresponding provision in this Order.

RONALD REAGAN.

§ 41308. Exemption from the antitrust laws

(a) DEFINITION.—In this section, “antitrust laws” has the same meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

(b) EXEMPTION AUTHORIZED.—When the Secretary of Transportation decides it is required by the public interest, the Secretary, as part of an order under section 41309 or 42111 of this title, may exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(c) EXEMPTION REQUIRED.—In an order under section 41309 of this title approving an agreement, request, modification, or cancellation, the Secretary, on the basis of the findings required under section 41309(b)(1), shall exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41308	49 App.:1384.	Aug. 23, 1958, Pub. L. 85-726, §414, 72 Stat. 770; restated Oct. 24, 1978, Pub. L. 95-504, §30(a), 92 Stat. 1731; Feb. 15, 1980, Pub. L. 96-192, §27, 94 Stat. 47.
	49 App.:1551(a)(6) (related to 49 App.:1384).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(6) (related to §414); added Oct. 4, 1984, Pub. L. 98-443, §3(c), 98 Stat. 1704.
	49 App.:1551(b)(1)(C) (related to 49 App.:1384).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(C) (related to §414); added Oct. 24, 1978, Pub. L. 95-504, §40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97-309, §4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98-443, §3(a), 98 Stat. 1703.

Subsection (a) is substituted for “the ‘anti-trust laws’ set forth in subsection (a) of section 12 of title 15” for consistency in the revised title and with other titles of the United States Code.

In subsection (b), reference to 49 App.:1378 and 1379 is omitted as obsolete.

§ 41309. Cooperative agreements and requests

(a) FILING.—An air carrier or foreign air carrier may file with the Secretary of Transportation a true copy of or, if oral, a true and complete memorandum of, an agreement (except an agreement related to interstate air transportation), or a request for authority to discuss cooperative arrangements (except arrangements related to interstate air transportation), and any modification or cancellation of an agreement, between the air carrier or foreign air carrier and another air carrier, a foreign carrier, or another carrier.

(b) APPROVAL.—The Secretary of Transportation shall approve an agreement, request, modification, or cancellation referred to in subsection (a) of this section when the Secretary finds it is not adverse to the public interest and is not in violation of this part. However, the Secretary shall disapprove—

(1) or, after periodic review, end approval of, an agreement, request, modification, or cancellation, that substantially reduces or eliminates competition unless the Secretary finds that—

(A) the agreement, request, modification, or cancellation is necessary to meet a serious transportation need or to achieve important public benefits (including international comity and foreign policy considerations); and

(B) the transportation need cannot be met or those benefits cannot be achieved by reasonably available alternatives that are materially less anticompetitive; or

(2) an agreement that—

(A) is between an air carrier not directly operating aircraft in foreign air transportation and a carrier subject to subtitle IV of this title; and

(B) governs the compensation the carrier may receive for the transportation.

(c) NOTICE AND OPPORTUNITY TO RESPOND OR FOR HEARING.—(1) When an agreement, request, modification, or cancellation is filed, the Secretary of Transportation shall give the Attorney General and the Secretary of State written notice of, and an opportunity to submit written comments about, the filing. On the initiative of the Secretary of Transportation or on request of the Attorney General or Secretary of State, the Secretary of Transportation may conduct a hearing to decide whether an agreement, request, modification, or cancellation is consistent with this part whether or not it was approved previously.

(2) In a proceeding before the Secretary of Transportation applying standards under subsection (b)(1) of this section, a party opposing an agreement, request, modification, or cancellation has the burden of proving that it substantially reduces or eliminates competition and that less anticompetitive alternatives are available. The party defending the agreement, request, modification, or cancellation has the burden of proving the transportation need or public benefits.

(3) The Secretary of Transportation shall include the findings required by subsection (b)(1) of this section in an order of the Secretary approving or disapproving an agreement, request, modification, or cancellation.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1129; Pub. L. 104-88, title III, §308(l), Dec. 29, 1995, 109 Stat. 948; Pub. L. 104-287, §5(71), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41309(a)	49 App.:1382(a)(1).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §412(a), (b); added Oct. 24, 1978, Pub. L. 95-504, §28(c), 92 Stat. 1729; Feb. 15, 1980, Pub. L. 96-192, §11, 94 Stat. 39.
	49 App.:1551(a)(6) (related to 49 App.:1382).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(6) (related to §412); added Oct. 4, 1984, Pub. L. 98-443, §3(c), 98 Stat. 1704.
	49 App.:1551(b)(1)(C) (related to 49 App.:1382(a)).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(C) (related to §412(a), (b)); added Oct. 24, 1978, Pub. L. 95-504, §40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97-309, §4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98-443, §3(a), 98 Stat. 1703.
41309(b)	49 App.:1382(a)(2)(A). 49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(a)).	
41309(c)(1) ..	49 App.:1382(b). 49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(b)).	
41309(c)(2) ..	49 App.:1382(a)(2)(B).	
41309(c)(3) ..	49 App.:1382(a)(2)(C). 49 App.:1551(a)(6), (b)(1)(C) (as 1551(a)(6), (b)(1)(C) relates to 49 App.:1382(a)).	

In this section, the word “contract” is omitted as being included in “agreement”.

In subsection (a), the words “(whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise)” are omitted as surplus. The words “(except an agreement related to interstate air transportation)” and “(except arrangements related to interstate air transportation)” are added because of 49 App.:1551(a)(6) (related to 49 App.:1382). The word “working” is omitted as surplus. The words “in force on October 24, 1978, or thereafter entered into” are omitted as executed. The words “and any modification or cancellation of an agreement” are substituted for “or any modification or cancellation thereof” for clarity and consistency.

In subsection (b), before clause (1), the words “The Board shall by order disapprove any contract, agreement, or request . . . that it finds to be adverse to the public interest or in violation of this chapter” are omitted as surplus because of the language restated in this subsection that sets out the requirements for approval by the Secretary of Transportation before the antitrust exemption is effective. The words “whether or not previously approved by it” are omitted as surplus because of the language in clause (1) requiring periodic review and continuing approval. The words “by order” are omitted as unnecessary because of 5:ch. 5, subch. II. The text of 49 App.:1382(a)(2)(A)(iii) is omitted as obsolete because of 49 App.:1551(a)(6) (related to 49 App.:1382).

In subsection (c)(1), the words “in accordance with regulations which it prescribes” are omitted as surplus. The words “in accordance with regulations prescribed by the Board” are omitted as surplus.

PUB. L. 104-287

This amends 49:41309(b)(2)(B) for consistency in the subsection.

AMENDMENTS

1996—Subsec. (b)(2)(B). Pub. L. 104-287 substituted “carrier” for “common carrier”.

1995—Subsec. (b)(2)(A). Pub. L. 104-88 substituted “a carrier” for “a common carrier”.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of this title.

AIR TRANSPORTATION ARRANGEMENTS IN CERTAIN STATES

Pub. L. 107-71, title I, §116, Nov. 19, 2001, 115 Stat. 624, which related to air transportation arrangements for flights that both originate and terminate at points within the same State, was repealed by Pub. L. 107-273, div. C, title IV, §14102(g), Nov. 2, 2002, 116 Stat. 1922.

§ 41310. Discriminatory practices

(a) PROHIBITION.—An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.

(b) REVIEW AND NEGOTIATION OF DISCRIMINATORY FOREIGN CHARGES.—(1) The Secretary of Transportation shall survey charges imposed on an air carrier by the government of a foreign country or another foreign entity for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation decides that a charge is discriminatory, the Secretary promptly shall report the decision to the Secretary of State. The Secretaries of State and Transportation promptly shall begin negotiations with the appropriate government to end the discrimination. If the discrimination is not ended in a reasonable time through negotiation, the Secretary of Transportation shall establish a compensating charge equal to the discriminatory charge. With the approval of the Secretary of State, the Secretary of the Treasury shall impose the compensating charge on a foreign air carrier of that country as a condition to accepting the general declaration of the aircraft of the foreign air carrier when it lands or takes off.

(2) The Secretary of the Treasury shall maintain an account to credit money collected under paragraph (1) of this subsection. An air carrier shall be paid from the account an amount certified by the Secretary of Transportation to compensate the air carrier for the discriminatory charge paid to the government.

(c) ACTIONS AGAINST DISCRIMINATORY ACTIVITY.—(1) The Secretary of Transportation may take actions the Secretary considers are in the public interest to eliminate an activity of a government of a foreign country or another foreign entity, including a foreign air carrier, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity—

(A) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against an air carrier; or

(B) imposes an unjustifiable or unreasonable restriction on access of an air carrier to a foreign market.

(2) The Secretary of Transportation may deny, amend, modify, suspend, revoke, or transfer under paragraph (1) of this subsection a foreign air carrier permit or tariff under section 41302, 41303, 41304(a), 41504(c), 41507, or 41509 of this title.

(d) FILING OF, AND ACTING ON, COMPLAINTS.—(1) An air carrier, computer reservations system firm, or a department, agency, or instrumentality of the United States Government may file a complaint under subsection (c) or (g) of this section with the Secretary of Transportation. The Secretary shall approve, deny, or dismiss the complaint, set the complaint for a hearing or investigation, or begin another proceeding proposing remedial action not later than 60 days after receiving the complaint. The Secretary may extend the period for acting for additional periods totaling not more than 30 days if the Secretary decides that with additional time it is likely that a complaint can be resolved satisfactorily through negotiations with the government of the foreign country or foreign entity. The Secretary must act not later than 90 days after receiving the complaint. However, the Secretary may extend this 90-day period for not more than an additional 90 days if, on the last day of the initial 90-day period, the Secretary finds that—

(A) negotiations with the government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

(B) an air carrier or computer reservations system firm has not been subjected to economic injury by the government or entity as a result of filing the complaint; and

(C) the public interest requires additional time before the Secretary acts on the complaint.

(2) In carrying out paragraph (1) of this subsection and subsection (c) of this section, the Secretary of Transportation shall—

(A) solicit the views of the Secretaries of Commerce and State and the United States Trade Representative;

(B) give an affected air carrier or foreign air carrier reasonable notice and an opportunity to submit written evidence and arguments within the time limits of this subsection; and

(C) submit to the President under section 41307 or 41509(f) of this title actions proposed by the Secretary of Transportation.

(e) REVIEW.—(1) The Secretaries of State, the Treasury, and Transportation and the heads of other departments, agencies, and instrumentalities of the Government shall keep under review, to the extent of each of their jurisdictions, each form of discrimination or unfair competitive practice to which an air carrier is subject when providing foreign air transportation or a computer reservations system firm is subject when providing services with respect to airline service. Each Secretary and head shall—

(A) take appropriate action to eliminate any discrimination or unfair competitive practice found to exist; and

(B) request Congress to enact legislation when the authority to eliminate the discrimination or unfair practice is inadequate.

(2) The Secretary of Transportation shall report to Congress annually on each action taken

under paragraph (1) of this subsection and on the continuing program to eliminate discrimination and unfair competitive practices. The Secretaries of State and the Treasury each shall give the Secretary of Transportation information necessary to prepare the report.

(f) **REPORTS.**—Not later than 30 days after acting on a complaint under this section, the Secretary of Transportation shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on action taken under this section on the complaint.

(g) **ACTIONS AGAINST DISCRIMINATORY ACTIVITY BY FOREIGN CRS SYSTEMS.**—The Secretary of Transportation may take such actions as the Secretary considers are in the public interest to eliminate an activity of a foreign air carrier that owns or markets a computer reservations system, or of a computer reservations system firm whose principal offices are located outside the United States, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity, with respect to airline service—

(1) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against a computer reservations system firm whose principal offices are located inside the United States; or

(2) imposes an unjustifiable or unreasonable restriction on access of such a computer reservations system to a foreign market.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1130; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 106–181, title VII, §741, Apr. 5, 2000, 114 Stat. 174.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41310(a)	49 App.:1374(b). 49 App.:1551(a)(4)(C) (related to 49 App.:1374(b)).	Aug. 23, 1958, Pub. L. 85–726, §404(b), 72 Stat. 760. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(C) (related to §404(b)); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1703.
41310(b)	49 App.:1159a.	June 16, 1948, ch. 473, 62 Stat. 450, §11; added Jan. 3, 1975, Pub. L. 93–623, §3, 88 Stat. 2103; Oct. 4, 1984, Pub. L. 98–443, §9(c), 98 Stat. 1706.
41310(c)	49 App.:1159b(b)(1).	Jan. 3, 1975, Pub. L. 93–623, 88 Stat. 2102, §2(b)(1), (2), (4); added Feb. 15, 1980, Pub. L. 96–192, §23, 94 Stat. 45; Oct. 4, 1984, Pub. L. 98–443, §9(d)(2), (3), 98 Stat. 1707; Aug. 23, 1988, Pub. L. 100–418, §§10011, 10012(1), (2), 102 Stat. 1573.
41310(d)(1) ..	49 App.:1159b(b)(2), (4).	Jan. 3, 1975, Pub. L. 93–623, 88 Stat. 2102, §2(b)(3), (e); added Aug. 23, 1988, Pub. L. 100–418, §§10012(3), 10013, 102 Stat. 1573.
41310(d)(2) ..	49 App.:1159b(b)(3).	
41310(e)(1) ..	49 App.:1159b(a). 49 App.:1159b(c).	Jan. 3, 1975, Pub. L. 93–623, §2(a), 88 Stat. 2102; Oct. 4, 1984, Pub. L. 98–443, §9(d)(1), 98 Stat. 1706.
41310(e)(2) ..	49 App.:1159b(d).	Jan. 3, 1975, Pub. L. 93–623, §2(c), 88 Stat. 2103; Feb. 15, 1980, Pub. L. 96–192, §23, 94 Stat. 45. Jan. 3, 1975, Pub. L. 93–623, §2(d), 88 Stat. 2103; Feb. 15, 1980, Pub. L. 96–192, §23, 94 Stat. 45; Oct. 4, 1984, Pub. L. 98–443, §9(d)(2), (4), 98 Stat. 1707.

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41310(f)	49 App.:1159b(e).	

In subsection (a), the words “may not subject . . . to unreasonable discrimination” are substituted for “No . . . shall make, give, or cause any undue or unreasonable preference or advantage . . . in any respect whatsoever or subject . . . to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever” to eliminate unnecessary words. The words “foreign air transportation” are substituted for “air transportation” because 49 App.:1551(a)(4)(C) provides that 49 App.:1374 no longer applies to interstate or overseas air transportation except insofar as 49 App.:1374 requires air carriers to provide safe and adequate service.

In subsection (b)(1), the words “at any time”, “unreasonably exceed comparable charges for furnishing such airport property or airway property in the United States or are otherwise” and “reduce such charges or” are omitted as surplus. The words “the Secretary of State shall promptly report such instances to” are omitted as surplus because the Secretary of Transportation is involved in the negotiations and aware of the failure to end the discrimination. The words “excessive or” are omitted as surplus. The words “or carriers” are omitted because of 1:1.

In subsection (b)(2), the words “in accordance with such regulations as he shall adopt” are omitted as surplus because of 49:322(a). The words “by them” are omitted as surplus.

In subsections (c)–(e), the words “United States” before “air carriers” and “air carrier” are omitted as surplus and for consistency because only a citizen of the United States may be an “air carrier” as defined in section 40102(a) of the revised title and because 49 App.:1301 applies to this section.

In subsections (c)(1) and (d)(1), before each clause (A), the words “foreign entity” and “entity” are substituted for “instrumentality” for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), the words “alteration”, “cancellation”, “limitation”, and “pursuant to the powers of the Secretary” are omitted as surplus.

In subsection (d)(1), before clause (A), the words “department, agency, or instrumentality of the United States Government” are substituted for “agency of the Government of the United States” for consistency in the revised title and with other titles of the Code. The words “additional periods totaling not more than 30 days” are substituted for “an additional period or periods of up to 30 days each” for clarity because the amendment made by section 10111 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418, 102 Stat. 1573) changed the additional period within which the Secretary had to act to only 30 days. The word “initial” is added for clarity.

In subsection (d)(2)(A), the words “the Secretaries of Commerce and State and the United States Trade Representative” are substituted for “the Department of State, the Department of Commerce, and the Office of the United States Trade Representative” because of 15:1501, 22:2651, and 19:2171, respectively.

In subsection (d)(2)(B), the words “as is consistent with acting on the complaint” are omitted as surplus.

In subsection (e)(1), before clause (A), the text of 49 App.:1159b(a) (1st, 2d sentences) is omitted as executed. The words “The Secretaries of State, the Treasury, and Transportation” are substituted for “The Department of State, the Department of the Treasury, the Department of Transportation” because of 22:2651, 31:301(b), and 49:102(b), respectively. The words “the heads of” and “instrumentalities of the Government” are added for consistency in the revised title and with other titles of the Code. The word “jurisdictions” is substituted for “respective functions” for clarity and consistency. In

clause (A), the words “within its jurisdiction . . . such forms of” are omitted as surplus. Clause (B) is substituted for 49 App.:1159b(c) to eliminate unnecessary words.

In subsection (e)(2), the words “faced by United States carriers in foreign air transportation”, “as may be”, and “required by this subsection” are omitted as surplus.

AMENDMENTS

2000—Subsec. (d)(1). Pub. L. 106–181, §741(b)(1)(A), (B), in first sentence of introductory provisions, substituted “air carrier, computer reservations system firm,” for “air carrier” and “subsection (c) or (g)” for “subsection (c)”.

Subsec. (d)(1)(B). Pub. L. 106–181, §741(b)(1)(C), substituted “air carrier or computer reservations system firm” for “air carrier”.

Subsec. (e)(1). Pub. L. 106–181, §741(b)(2), inserted “or a computer reservations system firm is subject when providing services with respect to airline service” before period at end of first sentence.

Subsec. (g). Pub. L. 106–181, §741(a), added subsec. (g). 1996—Subsec. (f). Pub. L. 104–287 substituted “Transportation and Infrastructure” for “Public Works and Transportation”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (e)(2) of this section relating to the requirement that the Secretary of Transportation report annually to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 21st item on page 132 of House Document No. 103–7.

§ 41311. Gambling restrictions

(a) IN GENERAL.—An air carrier or foreign air carrier may not install, transport, or operate, or permit the use of, any gambling device on board an aircraft in foreign air transportation.

(b) DEFINITION.—In this section, the term “gambling device” means any machine or mechanical device (including gambling applications on electronic interactive video systems installed on board aircraft for passenger use)—

(1) which when operated may deliver, as the result of the application of an element of chance, any money or property; or

(2) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property.

(Added Pub. L. 103–305, title II, §205(a)(1), Aug. 23, 1994, 108 Stat. 1583.)

STUDY OF GAMBLING ON COMMERCIAL AIRCRAFT

Section 205(b) of Pub. L. 103–305 provided that: “Not later than 1 year after the date of the enactment of this Act [Aug. 23, 1994], the Secretary shall complete a study of—

“(1) the aviation safety effects of gambling applications on electronic interactive video systems installed on board aircraft for passenger use, including an evaluation of the effect of such systems on the navigational and other electronic equipment of the aircraft, on the passengers and crew of the aircraft, and on issues relating to the method of payment;

“(2) the competitive implications of permitting foreign air carriers only, but not United States air car-

riers, to install, transport, and operate gambling applications on electronic interactive video systems on board aircraft in the foreign commerce of the United States on flights over international waters, or in fifth freedom city-pair markets; and

“(3) whether gambling should be allowed on international flights, including proposed legislation to effectuate any recommended changes in existing law.

The Secretary shall, within 5 days after the completion of the study, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives on the results of the study.”

§ 41312. Ending or suspending foreign air transportation

(a) GENERAL.—An air carrier holding a certificate issued under section 41102 of this title to provide foreign air transportation—

(1) may end or suspend the transportation to a place under the certificate only when the carrier gives at least 90 days notice of its intention to end or suspend the transportation to the Secretary of Transportation, any community affected by that decision, and the State authority of the State in which a community is located; and

(2) if it is the only air carrier holding a certificate to provide non-stop or single-plane foreign air transportation between 2 places, may end or suspend the transportation between those places only when the carrier gives at least 60 days notice of its intention to end or suspend the transportation to the Secretary and each community directly affected by that decision.

(b) TEMPORARY SUSPENSION.—The Secretary may authorize the temporary suspension of foreign air transportation under subsection (a) of this section when the Secretary finds the suspension is in the public interest.

(Added Pub. L. 103–429, §6(51)(A), Oct. 31, 1994, 108 Stat. 4384; amended Pub. L. 104–287, §5(72), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–429

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41312(a)	49 App.:1371(j)(1) (1st sentence), (2).	Aug. 23, 1958, Pub. L. 85–726, §401(j), 72 Stat. 756, as re-stated Oct. 24, 1978, Pub. L. 95–504, §19(a), 92 Stat. 1720.
	49 App.:1551(a)(1)(D).	Aug. 23, 1958, Pub. L. 85–726, §1601(a)(1)(D), as added Oct. 24, 1978, Pub. L. 95–504, §40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, §1601(b)(1)(E), as added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41312(b)	49 App.:1371(j)(1) (last sentence). 49 App.:1551(a)(1)(D), (b)(1)(E).	

In the section, the text of 49 App.:1371(j) (related to interstate and overseas transportation of persons) is omitted because of 49 App.:1551(a)(1)(D). The text of 49 App.:1371(j) (related to other interstate and overseas air transportation and the domestic air transportation of mail) is omitted because a certificate of public convenience and necessity is no longer required. See H.R. Rept. 98–793, 98th Cong., 2d Sess., p. 10 (1984). The text

of 49 App.:1371(j) (related to essential air transportation) is omitted as superseded by 49 App.:1389, restated as subchapter II of chapter 417 of title 49.

In subsection (a)(1) and (2), the word “place” is substituted for “point” for consistency in the revised title. The words “by that decision” are added for clarity.

In subsection (a)(1), the words “which it is providing” are omitted as surplus. The word “authority” is substituted for “agency” for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), the words “between those places” are substituted for “being provided by such air carrier under such certificate” to eliminate unnecessary words.

In subsection (b), the words “by regulation or otherwise” are omitted as surplus. The words “when the Secretary finds the suspension is in” are substituted for “as may be” for clarity and consistency.

PUB. L. 104-287

This amends 49:41312(a)(1) to conform to the style of title 49.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-287 substituted “Secretary of Transportation” for “Secretary”.

EFFECTIVE DATE

Section effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as an Effective Date of 1994 Amendment note under section 321 of this title.

§ 41313. Plans to address needs of families of passengers involved in foreign air carrier accidents

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) AIRCRAFT ACCIDENT.—The term “aircraft accident” means any aviation disaster, regardless of its cause or suspected cause, that occurs within the United States; and

(2) PASSENGER.—The term “passenger” has the meaning given such term by section 1136.

(b) SUBMISSION OF PLANS.—A foreign air carrier providing foreign air transportation under this chapter shall transmit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a major loss of life.

(c) CONTENTS OF PLANS.—To the extent permitted by foreign law which was in effect on the date of the enactment of this section, a plan submitted by a foreign air carrier under subsection (b) shall include the following:

(1) TELEPHONE NUMBER.—A plan for publicizing a reliable, toll-free telephone number and staff to take calls to such number from families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life.

(2) NOTIFICATION OF FAMILIES.—A process for notifying, in person to the extent practicable, the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life before providing any public notice of the names of such passengers. Such notice shall be provided by using the services of—

(A) the organization designated for the accident under section 1136(a)(2); or

(B) other suitably trained individuals.

(3) NOTICE PROVIDED AS SOON AS POSSIBLE.—An assurance that the notice required by paragraph (2) shall be provided as soon as practicable after the foreign air carrier has verified the identity of a passenger on the foreign aircraft, whether or not the names of all of the passengers have been verified.

(4) LIST OF PASSENGERS.—An assurance that the foreign air carrier shall provide, immediately upon request, and update a list (based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), to—

(A) the director of family support services designated for the accident under section 1136(a)(1); and

(B) the organization designated for the accident under section 1136(a)(2).

(5) CONSULTATION REGARDING DISPOSITION OF REMAINS AND EFFECTS.—An assurance that the family of each passenger will be consulted about the disposition of any remains and personal effects of the passenger that are within the control of the foreign air carrier.

(6) RETURN OF POSSESSIONS.—An assurance that, if requested by the family of a passenger, any possession (regardless of its condition) of that passenger that is within the control of the foreign air carrier will be returned to the family unless the possession is needed for the accident investigation or a criminal investigation.

(7) UNCLAIMED POSSESSIONS RETAINED.—An assurance that any unclaimed possession of a passenger within the control of the foreign air carrier will be retained by the foreign air carrier for not less than 18 months after the date of the accident.

(8) MONUMENTS.—An assurance that the family of each passenger will be consulted about construction by the foreign air carrier of any monument to the passengers built in the United States, including any inscription on the monument.

(9) EQUAL TREATMENT OF PASSENGERS.—An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

(10) SERVICE AND ASSISTANCE TO FAMILIES OF PASSENGERS.—An assurance that the foreign air carrier will work with any organization designated under section 1136(a)(2) on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following an accident.

(11) COMPENSATION TO SERVICE ORGANIZATIONS.—An assurance that the foreign air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) for services and assistance provided by the organization.

(12) TRAVEL AND CARE EXPENSES.—An assurance that the foreign air carrier will assist the family of any passenger in traveling to the location of the accident and provide for the

physical care of the family while the family is staying at such location.

(13) **RESOURCES FOR PLAN.**—An assurance that the foreign air carrier will commit sufficient resources to carry out the plan.

(14) **SUBSTITUTE MEASURES.**—If a foreign air carrier does not wish to comply with paragraph (10), (11), or (12), a description of proposed adequate substitute measures for the requirements of each paragraph with which the foreign air carrier does not wish to comply.

(15) **TRAINING OF EMPLOYEES AND AGENTS.**—An assurance that the foreign air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

(16) **CONSULTATION ON CARRIER RESPONSE NOT COVERED BY PLAN.**—An assurance that the foreign air carrier, in the event that the foreign air carrier volunteers assistance to United States citizens within the United States with respect to an aircraft accident outside the United States involving major loss of life, the foreign air carrier¹ will consult with the Board and the Department of State on the provision of the assistance.

(17) **NOTICE CONCERNING LIABILITY FOR MANMADE STRUCTURES.**—

(A) **IN GENERAL.**—An assurance that, in the case of an accident that results in significant damage to a manmade structure or other property on the ground that is not government-owned, the foreign air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

(B) **MINIMUM CONTENTS.**—At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by foreign air carrier representatives about compensation by the foreign air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

(18) **SIMULTANEOUS ELECTRONIC TRANSMISSION OF NTSB HEARING.**—An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the foreign air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the foreign air carrier's flight if that city is located in the United States.

(d) **PERMIT AND EXEMPTION REQUIREMENT.**—The Secretary shall not approve an application for a

permit under section 41302 unless the applicant has included as part of the application or request for exemption a plan that meets the requirements of subsection (c).

(e) **LIMITATION ON LIABILITY.**—A foreign air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the foreign air carrier in preparing or providing a passenger list pursuant to a plan submitted by the foreign air carrier under subsection (c), unless the liability was caused by conduct of the foreign air carrier which was grossly negligent or which constituted intentional misconduct.

(Added Pub. L. 105-148, §1(a), Dec. 16, 1997, 111 Stat. 2681; amended Pub. L. 106-181, title IV, §403(a)-(c)(1), Apr. 5, 2000, 114 Stat. 130; Pub. L. 108-176, title VIII, §809(b), Dec. 12, 2003, 117 Stat. 2589.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c), is the date of enactment of Pub. L. 105-148, which was approved Dec. 16, 1997.

AMENDMENTS

2003—Subsec. (c)(17), (18). Pub. L. 108-176 added pars. (17) and (18).

2000—Subsec. (a)(2). Pub. L. 106-181, §403(a), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: "The term 'passenger' includes an employee of a foreign air carrier or air carrier aboard an aircraft."

Subsec. (b). Pub. L. 106-181, §403(b), substituted "major" for "significant".

Subsec. (c)(15), (16). Pub. L. 106-181, §403(c)(1), added pars. (15) and (16).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 403(a) and (b) of Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

Pub. L. 106-181, title IV, §403(c)(2), Apr. 5, 2000, 114 Stat. 131, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on the 180th day following the date of the enactment of this Act [Apr. 5, 2000]. On or before such 180th day, each foreign air carrier providing foreign air transportation under chapter 413 of title 49, United States Code, shall submit to the Secretary [of Transportation] and the Chairman of the National Transportation Safety Board an updated plan under section 41313 of such title that meets the requirements of the amendment made by paragraph (1)."

EFFECTIVE DATE

Pub. L. 105-148, §1(c), Dec. 16, 1997, 111 Stat. 2683, provided that: "The amendments made by this section [enacting this section] shall take effect on the 180th day following the date of the enactment of this Act [Dec. 16, 1997]."

CHAPTER 415—PRICING

Sec.

41501.

Establishing reasonable prices, classifications, rules, practices, and divisions of joint prices for foreign air transportation.

41502.

Establishing joint prices for through routes with other carriers.

¹ So in original. The words "the foreign air carrier" probably should not appear.

- Sec.
 41503. Establishing joint prices for through routes provided by State authorized carriers.
 41504. Tariffs for foreign air transportation.
 41505. Uniform methods for establishing joint prices, and divisions of joint prices, applicable to commuter air carriers.
 41506. Price division filing requirements for foreign air transportation.
 41507. Authority of the Secretary of Transportation to change prices, classifications, rules, and practices for foreign air transportation.
 41508. Authority of the Secretary of Transportation to adjust divisions of joint prices for foreign air transportation.
 41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation.
 41510. Required adherence to foreign air transportation tariffs.
 41511. Special prices for foreign air transportation.

AMENDMENTS

1997—Pub. L. 105–102, §2(21), Nov. 20, 1997, 111 Stat. 2205, struck out “common” before “carriers” in item 41502.

§ 41501. Establishing reasonable prices, classifications, rules, practices, and divisions of joint prices for foreign air transportation

Every air carrier and foreign air carrier shall establish, comply with, and enforce—

(1) reasonable prices, classifications, rules, and practices related to foreign air transportation; and

(2) for joint prices established for foreign air transportation, reasonable divisions of those prices among the participating air carriers or foreign air carriers without unreasonably discriminating against any of those carriers.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1132.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41501	49 App.:1374(a)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §404(a)(2); added Mar. 22, 1972, Pub. L. 92–259, §1, 86 Stat. 95.

In this chapter, the word “regulation” is omitted in restating the phrase “classifications, rules, regulations, and practices” because it is covered by the word “rules” and to distinguish the rules of an air carrier or foreign air carrier from the regulations of the United States Government. The word “reasonable” is substituted for “just and reasonable” and “just, reasonable, and equitable” for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. The word “prices” is substituted for “fares” and “rates, fares, and charges” because of the definition of “price” in section 40102(a) of the revised title.

In this section, before clause (1), the words “comply with” are substituted for “observe” for consistency in the revised title and with other titles of the United States Code. In clause (1), the words “individual and joint” are omitted as surplus. In clause (2), the words “unreasonably discriminating” are substituted for “unduly prefer or prejudice” for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101.

§ 41502. Establishing joint prices for through routes with other carriers

(a) JOINT PRICES.—An air carrier may establish reasonable joint prices and through service

with another carrier. However, an air carrier not directly operating aircraft in air transportation (except an air express company) may not establish under this section a joint price for the transportation of property with a carrier subject to subtitle IV of this title.

(b) PRICES, CLASSIFICATIONS, RULES, AND PRACTICES AND DIVISIONS OF JOINT PRICES.—For through service by an air carrier and a carrier subject to subtitle IV of this title, the participating carriers shall establish—

(1) reasonable prices and reasonable classifications, rules, and practices affecting those prices or the value of the transportation provided under those prices; and

(2) for joint prices established for the through service, reasonable divisions of those joint prices among the participating carriers.

(c) STATEMENTS INCLUDED IN TARIFFS.—An air carrier and a carrier subject to subtitle IV of this title that are participating in through service and joint prices shall include in their tariffs, filed with the Secretary of Transportation, a statement showing the through service and joint prices.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1132; Pub. L. 104–88, title III, §308(l), Dec. 29, 1995, 109 Stat. 948; Pub. L. 105–102, §2(22), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES
 PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41502(a)	49 App.:1483(b) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §1003(b), 72 Stat. 791.
41502(b)	49 App.:1483(b) (2d sentence).	
41502(c)	49 App.:1483(b) (last sentence). 49 App.:155(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In subsection (a), the words “(except an air express company)” are substituted for “(other than companies engaged in the air express business)” to eliminate unnecessary words.

In subsection (b), before clause (1), the words “participating carriers” are substituted for “carriers parties thereto” and “carriers participating therein” for consistency in this chapter.

In subsection (c), the words “or the Interstate Commerce Commission, as the case may be” are omitted because of 49:10526(a)(8)(B).

PUB. L. 105–102

This amends the catchline for 49:41502 to make a technical and conforming amendment necessary because section 308(l) of the ICC Termination Act (Public Law 104–88, 109 Stat. 948) struck “common” from the text of 49:41502.

AMENDMENTS

1997—Pub. L. 105–102 struck out “common” before “carriers” in section catchline.

1995—Pub. L. 104–88 substituted “another carrier” for “another common carrier” in subsec. (a) and “a carrier” for “a common carrier” in subsecs. (a), (b), and (c).

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of this title.

§ 41503. Establishing joint prices for through routes provided by State authorized carriers

Subject to sections 41309 and 42111 of this title, a citizen of the United States providing transportation under section 41101(b) of this title may make an agreement with an air carrier or foreign air carrier for joint prices for that transportation. The joint prices agreed to must be the lowest of—

(1) the sum of the applicable prices for—

(A) the part of the transportation provided in the State and approved by the appropriate State authority; and

(B) the part of the transportation provided by the air carrier or foreign air carrier;

(2) a joint price established and filed under section 41504 of this title; or

(3) a joint price prescribed by the Secretary of Transportation under section 41507 of this title.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1132.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41503	49 App.:1371(d) (4)(A)(ii) (related to joint rates, fares), (B).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(d) (4)(A)(ii) (related to joint rates, fares), (B); added Nov. 9, 1977, Pub. L. 95-163, §9, 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95-504, §9, 92 Stat. 1713.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the words “Notwithstanding any other provision of this chapter” are omitted as surplus. The words “a citizen of the United States providing transportation under section 41101(b) of this title” are substituted for “any citizen of the United States who undertakes, within any State, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage within such State granted by the appropriate State agency” for clarity and because of the restatement of 49 App.:1371(d)(4)(A)(i) and (ii) (related to joint services) in section 41101(b) of the revised title. The words “the establishment of” are omitted as surplus.

§ 41504. Tariffs for foreign air transportation

(a) FILING AND CONTENTS.—In the way prescribed by regulation by the Secretary of Transportation, every air carrier and foreign air carrier shall file with the Secretary, publish, and keep open to public inspection, tariffs showing the prices for the foreign air transportation provided between places served by the carrier and provided between places served by the carrier and places served by another air carrier or foreign air carrier with which through service and joint prices have been established. A tariff—

(1) shall contain—

(A) to the extent the Secretary requires by regulation, a description of the classifications, rules, and practices related to the foreign air transportation;

(B) a statement of the prices in money of the United States; and

(C) other information the Secretary requires by regulation; and

(2) may contain—

(A) a statement of the prices in money that is not money of the United States; and

(B) information that is required under the laws of a foreign country in or to which the air carrier or foreign air carrier is authorized to operate.

(b) CHANGES.—(1) Except as provided in paragraph (2) of this subsection, an air carrier or foreign air carrier may change a price or a classification, rule, or practice affecting that price or the value of the transportation provided under that price, specified in a tariff of the carrier for foreign air transportation only after 30 days after the carrier has filed, published, and posted notice of the proposed change in the same way as required for a tariff under subsection (a) of this section. However, the Secretary may prescribe an alternative notice requirement, of at least 25 days, to allow an air carrier or foreign air carrier to match a proposed change in a passenger fare or a charge of another air carrier or foreign air carrier. A notice under this paragraph must state plainly the change proposed and when the change will take effect.

(2) If the effect of a proposed change would be to begin a passenger fare that is outside of, or not covered by, the range of passenger fares specified under section 41509(e)(2) and (3) of this title, the proposed change may be put into effect only on the expiration of 60 days after the notice is filed under regulations prescribed by the Secretary.

(c) REJECTION OF CHANGES.—The Secretary may reject a tariff or tariff change that is not consistent with this section and regulations prescribed by the Secretary. A tariff or change that is rejected is void.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1133.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41504(a)	49 App.:1373(a) (1st sentence, 2d sentence words before semicolon, last sentence).	Aug. 23, 1958, Pub. L. 85-726, §403(a), 72 Stat. 758.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(a)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(a), (c)(1), (2), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(c), (e), 98 Stat. 1703, 1704.
41504(b)(1) ..	49 App.:1373(c)(1).	Aug. 23, 1958, Pub. L. 85-726, §403(c)(1), (2), 72 Stat. 759; Nov. 9, 1977, Pub. L. 95-163, §10(a), 91 Stat. 1281; restated Oct. 24, 1978, Pub. L. 95-504, §22, 92 Stat. 1724; Feb. 15, 1980, Pub. L. 96-192, §24(b), (c), 94 Stat. 47.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(c)(1)), (b)(1)(E).	
41504(b)(2) ..	49 App.:1373(c)(2).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(c)(2)), (b)(1)(E).	
41504(c)	49 App.:1373(a) (2d sentence words after semicolon, 3d sentence).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(a)), (b)(1)(E).	

In this section, the words “foreign air transportation” are substituted for “air transportation” because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining “air transportation” to mean interstate or foreign air transportation or the transportation of mail by aircraft. The words “passenger fare” are substituted for “fare” for consistency in the revised title.

In subsection (a), before clause (1), the word “print” is omitted as being included in “publish”. The word “places” is substituted for “points” for consistency in the revised title and with other titles of the United States Code. In clause (1)(A), the word “services” is omitted as being included in “practices”. In clauses (1)(B) and (2)(A), the word “lawful” is omitted as surplus.

In subsection (b)(1), the words “for foreign air transportation” are added because of 49 App.:1551(a)(4)(B). See the revision notes for subsection (a) of this section. The words “in the same way as required for a tariff under” are substituted for “in accordance with” for clarity. The words “proposed change in a passenger fare or a charge of another air carrier or foreign air carrier” are substituted for “fares or charges specified in another air carrier’s or foreign air carrier’s proposed tariff” for clarity and consistency in this section.

In subsection (b)(2), the words “not covered by” are substituted for “to which such range of fares does not apply” to eliminate unnecessary words. The words “subparagraphs (A) and (B) of section 1482(d)(4) of this Appendix . . . section 1482(d)(7) of this Appendix” are omitted because those sections related to interstate and overseas air transportation and the source provisions restated in this section relate to foreign air transportation. In addition, the text of 49 App.:1551(a)(5)(D) provides that 49 App.:1482(d) ceased to be in effect on January 1, 1985, except as related to foreign air transportation. The reference in the source provisions to “section 1482(j)(9) of this Appendix” has been restated as though it were a reference to 49 App.:1482(j)(10) to correct an apparent error in the International Air Transportation Competition Act of 1979 (Public Law 96–192, 94 Stat. 35). Section 24(b) of S. 1300 of the 96th Congress (the derivative source for the International Air Transportation Competition Act of 1979), as originally passed by both the Senate and the House of Representatives, restated section 403(c)(2) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 759) to read as it now does with a cross-reference to section 1002(j)(9) of the Federal Aviation Act of 1958. Also contained in those versions of S. 1300 in section 24(a) was an amendment to section 1002(j) of the Federal Aviation Act of 1958 to add a paragraph (9) that contained language identical to what is now section 1002(j)(10) of the Federal Aviation Act of 1958. When S. 1300 was reported by the conference committee and enacted into law as the International Air Transportation Competition Act of 1979, section 24(a) had been changed so that a different paragraph (9) was added and what had been paragraph (9) was now designated as a new paragraph (10) to be added. Apparently, when the conference committee redesignated section 1002(j)(9) as 1002(j)(10) it did not make a corresponding change in the cross-reference in section 403(c)(2). See 125 Cong. Rec. 26936, 32147, 36939.

§ 41505. Uniform methods for establishing joint prices, and divisions of joint prices, applicable to commuter air carriers

(a) DEFINITION.—In this section, “commuter air carrier” means an air carrier providing transportation under section 40109(f) of this title that provides at least 5 scheduled roundtrips a week between the same 2 places.

(b) GENERAL.—Except as provided in subsection (c) of this section, when the Secretary of Transportation prescribes under section 41508 or 41509 of this title a uniform method generally applicable to establishing joint prices and divisions of joint prices for and between air carriers holding certificates issued under section 41102 of this title, the Secretary shall make that uniform method apply to establishing joint prices and divisions of joint prices for and between air carriers and commuter air carriers.

(c) NOTICE REQUIRED BEFORE MODIFYING, SUSPENDING, OR ENDING TRANSPORTATION.—A commuter air carrier that has an agreement with an air carrier to provide transportation for passengers and property that includes through service by the commuter air carrier over the commuter air carrier’s routes and air transportation provided by the air carrier shall give the air carrier and the Secretary at least 90 days’ notice before modifying, suspending, or ending the transportation. If the commuter air carrier does not give that notice, the uniform method of establishing joint prices and divisions of joint prices referred to in subsection (b) of this section does not apply to the commuter air carrier. (Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41505(a)	49 App.:1482a(2), (3).	Oct. 24, 1978, Pub. L. 95–504, § 37(c), 92 Stat. 1742.
41505(b)	49 App.:1482a(1) (1st sentence). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41505(c)	49 App.:1482a(1) (last sentence). 49 App.:1551(b)(1)(E).	

In subsection (a), the text of 49 App.:1482a(2)(A) is omitted as unnecessary because the definition of “air carrier” in 49 App.:1301(3) is restated in section 40102(a) of the revised title and applies to this section and because the functions of the Civil Aeronautics Board under 49 App.:1482a were transferred to the Secretary of Transportation by 49 App.:1551(b)(1)(E) and the complete name of the Secretary is used the first time the term appears in a section. The text of 49 App.:1482a(3) is omitted as executed. The reference in the source provisions to “section 416(b)(3) of the Federal Aviation Act of 1958 [49 App. U.S.C. 1386(b)(3)]” has been restated as though it were a reference to section 416(b)(4) to correct an apparent error in the Airline Deregulation Act of 1978 (Public Law 95–504, 92 Stat. 1705). Section 24 of H.R. 12611 of the 95th Congress (the derivative source for 416(b)(4)), added section 416(b)(3) to the Federal Aviation Act. Section 29(c) added provisions that eventually were classified as 49 App.:1482a. Those provisions contained a reference to section 416(b)(3). When S. 2493 (passed in lieu of the House bill after being amended to contain much of the text of the House bill) was reported by the conference committee and enacted into law, section 32 added what had been a new 416(b)(3) as a new 416(b)(4). However, the conference committee did not make a corresponding change in the cross-reference in section 37(c), that added 49 App.:1482a. See 124 Cong. Rec. 30714, 30716, 36521, 36524. The word “scheduled” is substituted for “pursuant to flight schedules” to eliminate unnecessary words. The words “the same 2 places” are substituted for “one pair of points” for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words “Except as provided in subsection (c) of this section” are added for clarity.

The words “pursuant to its authority” are omitted as surplus.

In subsection (c), the word “passengers” is substituted for “persons” for consistency in the revised title and with other titles of the Code. The words “through service by the commuter air carrier over the commuter air carrier’s routes” are substituted for “transportation over its routes” for clarity. The words “between air carriers and commuter air carriers” are omitted as surplus.

§ 41506. Price division filing requirements for foreign air transportation

Every air carrier and foreign air carrier shall keep currently on file with the Secretary of Transportation, if the Secretary requires, the established divisions of all joint prices for foreign air transportation in which the carrier participates.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41506	49 App.:1373(d). 49 App.:1551(a)(4)(B) (related to 49 App.:1373(d)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, § 403(d), 72 Stat. 759. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(4)(B) (related to § 403(d)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.

The words “foreign air transportation” are substituted for “air transportation” because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining “air transportation” to mean interstate or foreign air transportation or the transportation of mail by aircraft.

§ 41507. Authority of the Secretary of Transportation to change prices, classifications, rules, and practices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a price charged or received by an air carrier or foreign air carrier for foreign air transportation, or a classification, rule, or practice affecting that price or the value of the transportation provided under that price, is or will be unreasonably discriminatory, the Secretary may—

(1) change the price, classification, rule, or practice as necessary to correct the discrimination; and

(2) order the air carrier or foreign air carrier to stop charging or collecting the discriminatory price or carrying out the discriminatory classification, rule, or practice.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary’s own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1134.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41507(a)	49 App.:1482(f) (words after 4th comma). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, § 1002(f), 72 Stat. 789. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41507(b)	49 App.:1482(f) (words before 4th comma). 49 App.:1551(b)(1)(E).	

In subsection (a), before clause (1), the words “individual or joint” are omitted as surplus. The words “charged or received” are substituted for “demanded, charged, collected, or received” to eliminate unnecessary words. The words “unreasonably discriminatory” are substituted for “unjustly discriminatory, or unduly preferential, or unduly prejudicial” for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. In clause (2), the words “carrying out” are substituted for “enforcing” for clarity.

In subsection (b), the words “opportunity for a” are added for consistency in the revised title and with other titles of the United States Code.

§ 41508. Authority of the Secretary of Transportation to adjust divisions of joint prices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a division between air carriers, foreign air carriers, or both, of a joint price for foreign air transportation is or will be unreasonable or unreasonably discriminatory against any of those carriers, the Secretary shall prescribe a reasonable division of the joint price among those carriers. The Secretary may order the adjustment in the division of the joint price to be made retroactively to the date the complaint was filed, the date the order for an investigation was made, or a later date the Secretary decides is reasonable.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary’s own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1135.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41508(a)	49 App.:1482(h) (words after 3d comma). 49 App.:1551(a)(5)(D) (related to 49 App.:1482(h)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, § 1002(h), 72 Stat. 790; Nov. 9, 1977, Pub. L. 95–163, § 18(c), 91 Stat. 1287. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(5)(D) (related to § 1002(h)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), (e), 98 Stat. 1703, 1704.
41508(b)	49 App.:1482(h) (words before 3d comma). 49 App.:1551(a)(5)(D) (related to 49 App.:1482(h)), (b)(1)(E).	

In subsection (a), the words “interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the state of Hawaii, or overseas or” are omitted because 49:1551(a)(5)(D) provides that 49 App.:1482(h) applies only to foreign air transportation. The words “un-

reasonable or unreasonably discriminatory” are substituted for “unjust, unreasonable, inequitable, or unduly preferential or prejudicial” for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101. The words “against any of those carriers” are substituted for “as between the air carriers or foreign air carriers parties thereto” to eliminate unnecessary words. The word “retroactively” is added for clarity.

In subsection (b), the words “an opportunity for a” are added for consistency in the revised title and with other titles of the United States Code.

§ 41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation

(a) CANCELLATION AND REJECTION.—(1) On the initiative of the Secretary of Transportation or on a complaint filed with the Secretary, the Secretary may conduct a hearing to decide whether a price for foreign air transportation contained in an existing or newly filed tariff of an air carrier or foreign air carrier, a classification, rule, or practice affecting that price, or the value of the transportation provided under that price, is lawful. The Secretary may begin the hearing at once and without an answer or another formal pleading by the air carrier or foreign air carrier, but only after reasonable notice. If, after the hearing, the Secretary decides that the price, classification, rule, or practice is or will be unreasonable or unreasonably discriminatory, the Secretary may cancel or reject the tariff and prevent the use of the price, classification, rule, or practice.

(2) With or without a hearing, the Secretary may cancel or reject an existing or newly filed tariff of a foreign air carrier and prevent the use of a price, classification, rule, or practice when the Secretary decides that the cancellation or rejection is in the public interest.

(3) In deciding whether to cancel or reject a tariff of an air carrier or foreign air carrier under this subsection, the Secretary shall consider—

(A) the effect of the price on the movement of traffic;

(B) the need in the public interest of adequate and efficient transportation by air carriers and foreign air carriers at the lowest cost consistent with providing the transportation;

(C) the standards prescribed under law related to the character and quality of transportation to be provided by air carriers and foreign air carriers;

(D) the inherent advantages of transportation by aircraft;

(E) the need of the air carrier and foreign air carrier for revenue sufficient to enable the air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier transportation;

(F) whether the price will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation;

(G) reasonably estimated or foreseeable future costs and revenues for the air carrier or foreign air carrier for a reasonably limited future period during which the price would be in effect; and

(H) other factors.

(b) SUSPENSION.—(1)(A) Pending a decision under subsection (a)(1) of this section, the Secretary may suspend a tariff and the use of a price contained in the tariff or a classification, rule, or practice affecting that price.

(B) The Secretary may suspend a tariff of a foreign air carrier and the use of a price, classification, rule, or practice when the suspension is in the public interest.

(2) A suspension becomes effective when the Secretary files with the tariff and delivers to the air carrier or foreign air carrier affected by the suspension a written statement of the reasons for the suspension. To suspend a tariff, reasonable notice of the suspension must be given to the affected carrier.

(3) The suspension of a newly filed tariff may be for periods totaling not more than 365 days after the date the tariff otherwise would go into effect. The suspension of an existing tariff may be for periods totaling not more than 365 days after the effective date of the suspension. The Secretary may rescind at any time the suspension of a newly filed tariff and allow the price, classification, rule, or practice to go into effect.

(c) EFFECTIVE TARIFFS AND PRICES WHEN TARIFF IS SUSPENDED, CANCELED, OR REJECTED.—(1) If a tariff is suspended pending the outcome of a proceeding under subsection (a) of this section and the Secretary does not take final action in the proceeding during the suspension period, the tariff goes into effect at the end of that period subject to cancellation when the proceeding is concluded.

(2)(A) During the period of suspension, or after the cancellation or rejection, of a newly filed tariff (including a tariff that has gone into effect provisionally), the affected air carrier or foreign air carrier shall maintain in effect and use—

(i) the corresponding seasonal prices, or the classifications, rules, and practices affecting those prices or the value of transportation provided under those prices, that were in effect for the carrier immediately before the new tariff was filed; or

(ii) another price provided for under an applicable intergovernmental agreement or understanding.

(B) If the suspended, canceled, or rejected tariff is the first tariff of the carrier for the covered transportation, the carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a price or another classification, rule, or practice affecting the price, or the value of the transportation provided under the price, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(3) If an existing tariff is suspended or canceled, the affected air carrier or foreign air carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a price or another classification, rule, or practice affecting the price, or the value of the transportation provided under the price, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(d) RESPONSE TO REFUSAL OF FOREIGN COUNTRY TO ALLOW AIR CARRIER TO CHARGE A PRICE.—When the Secretary finds that the government or an aeronautical authority of a foreign country has refused to allow an air carrier to charge a price contained in a tariff filed and published under section 41504 of this title for foreign air transportation to the foreign country—

(1) the Secretary, without a hearing—

(A) may suspend any existing tariff of a foreign air carrier providing transportation between the United States and the foreign country for periods totaling not more than 365 days after the date of the suspension; and

(B) may order the foreign air carrier to charge, during the suspension periods, prices that are the same as those contained in a tariff (designated by the Secretary) of an air carrier filed and published under section 41504 of this title for foreign air transportation to the foreign country; and

(2) a foreign air carrier may continue to provide foreign air transportation to the foreign country only if the government or aeronautical authority of the foreign country allows an air carrier to start or continue foreign air transportation to the foreign country at the prices designated by the Secretary.

(e) STANDARD FOREIGN FARE LEVEL.—(1)(A) In this subsection, “standard foreign fare level” means—

(i) for a class of fares existing on October 1, 1979, the fare between 2 places (as adjusted under subparagraph (B) of this paragraph) filed for and allowed by the Civil Aeronautics Board to go into effect after September 30, 1979, and before August 13, 1980 (with seasonal fares adjusted by the percentage difference that prevailed between seasons in 1978), or the fare established under section 1002(j)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 24(a) of the International Air Transportation Competition Act of 1979 (Public Law 96–192, 94 Stat. 46); or

(ii) for a class of fares established after October 1, 1979, the fare between 2 places in effect on the effective date of the establishment of the new class.

(B) At least once every 60 days for fuel costs, and at least once every 180 days for other costs, the Secretary shall adjust the standard foreign fare level for the particular foreign air transportation to which the standard foreign fare level applies by increasing or decreasing that level by the percentage change from the last previous period in the actual operating cost for each available seat-mile. In adjusting a standard foreign fare level, the Secretary may not make an adjustment to costs actually incurred. In establishing a standard foreign fare level and making adjustments in the level under this paragraph, the Secretary may use all relevant or appropriate information reasonably available to the Secretary.

(2) The Secretary may not decide that a proposed fare for foreign air transportation is unreasonable on the basis that the fare is too low or too high if the proposed fare is neither more than 5 percent higher nor 50 percent lower than

the standard foreign fare level for the same or essentially similar class of transportation. The Secretary by regulation may increase the 50 percent specified in this paragraph.

(3) Paragraph (2) of this subsection does not apply to a proposed fare that is not more than—

(A) 5 percent higher than the standard foreign fare level when the Secretary decides that the proposed fare may be unreasonably discriminatory or that suspension of the fare is in the public interest because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier; or

(B) 50 percent lower than the standard foreign fare level when the Secretary decides that the proposed fare may be predatory or discriminatory or that suspension of the fare is required because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier.

(f) SUBMISSION OF ORDERS TO PRESIDENT.—The Secretary shall submit to the President an order made under this section suspending, canceling, or rejecting a price for foreign air transportation, and an order rescinding the effectiveness of such an order, before publishing the order. Not later than 10 days after its submission, the President may disapprove the order on finding disapproval is necessary for United States foreign policy or national defense reasons.

(g) COMPLIANCE AS CONDITION OF CERTIFICATE OR PERMIT.—This section and compliance with an order of the Secretary under this section are conditions to any certificate or permit held by an air carrier or foreign air carrier. An air carrier or foreign air carrier may provide foreign air transportation only as long as the carrier maintains prices for that transportation that comply with this section and orders of the Secretary under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1135.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41509(a)(1) ..	49 App.:1482(j)(1) (1st sentence words before semicolon, 2d sentence related to tariffs of air carriers and foreign air carriers), (2) (1st sentence words before semicolon, 2d sentence related to tariffs of air carriers and foreign air carriers). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1002(j)(1), (2); added Mar. 22, 1972, Pub. L. 92–259, §3(a), 86 Stat. 96; restated Feb. 15, 1980, Pub. L. 96–192, §§14, 15, 94 Stat. 40. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(c)(3)), (b) (1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41509(a)(2) ..	49 App.:1482(j)(1) (2d sentence related to tariffs of foreign air carriers), (2) (2d sentence related to tariffs of foreign air carriers). 49 App.:1551(b)(1)(E).	

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41509(a)(3) ..	49 App.:1482(j)(5).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1002(j)(5); added Mar. 22, 1972, Pub. L. 92-259, §3(a), 86 Stat. 98; Feb. 15, 1980, Pub. L. 96-192, §16, 94 Stat. 42.
41509(b)	49 App.:1551(b)(1)(E). 49 App.:1373(c)(3).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §403(c)(3); added Oct. 24, 1978, Pub. L. 95-504, §22, 92 Stat. 1724.
41509(c)(1) ..	49 App.:1482(j)(1) (1st sentence words after semicolon, 3d sentence), (2) (1st sentence words after semicolon). 49 App.:1551(a)(4)(B) (related to 49 App.:1373(c)(3)), (b)(1)(E).	
41509(c)(2) ..	49 App.:1482(j)(1) (4th sentence), (2) (3d sentence). 49 App.:1551(b)(1)(E). 49 App.:1482(j)(1) (5th, last sentences).	
41509(c)(3) ..	49 App.:1482(j)(2) (last sentence).	
41509(d)	49 App.:1482(j)(3).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1002(j)(3), (4); added Mar. 22, 1972, Pub. L. 92-259, §3(a), 86 Stat. 98.
41509(e) (1)(A).	49 App.:1551(b)(1)(E). 49 App.:1482(j)(7).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1002(j)(6), (7), (9), (10); added Feb. 15, 1980, Pub. L. 96-192, §24(a), 94 Stat. 45, 47.
41509(e) (1)(B).	49 App.:1482(j)(9).	
41509(e)(2), (3).	49 App.:1551(b)(1)(E). 49 App.:1482(j)(6), (10).	
41509(f)	49 App.:1551(b)(1)(E). 49 App.:1461(b).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §801(b); added Mar. 22, 1972, Pub. L. 92-259, §2, 86 Stat. 96.
41509(g)	49 App.:1551(b)(1)(E). 49 App.:1482(j)(4). 49 App.:1551(b)(1)(E).	

In subsection (a)(1) and (2), the words “take action to” are omitted as surplus.

In subsection (a)(1), the words “individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers)” and “and, if it so orders” are omitted as surplus. The words “unreasonable or unreasonably discriminatory” are substituted for “unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial” for consistency in the revised title and to eliminate unnecessary words. See the revision notes following 49:10101.

In subsection (a)(3), before clause (A), the words “In deciding whether to cancel or reject a tariff of an air carrier or foreign air carrier under this subsection” are substituted for “In exercising and performing its powers and duties under this subsection with respect to the rejection or cancellation of rates for the carriage of persons or property” for consistency in this section and to eliminate unnecessary words. In clause (B), the words “of persons and property” are omitted as surplus.

In subsection (b)(1), the words “contained in the tariff” are added for clarity.

In subsection (b)(1)(A), the words “such hearing and” are omitted as surplus.

In subsection (b)(1)(B), the words “or in the case of” are omitted as surplus.

In subsection (b)(2), the text of 49 App.:1373(c)(3) is omitted as obsolete. Reference to 49 App.:1482(g) is omitted because 49 App.:1482(g) does not relate to foreign air transportation and 49 App.:1551(a)(5)(D) provides that 49 App.:1482(g) ceased to be in effect on January 1, 1985, except insofar as it related to foreign air

transportation. Reference to 49 App.:1482(j) is omitted because it consistently has been interpreted that the minimum notice requirement does not apply to foreign air transportation.

In subsection (b)(3), the words “for periods totaling not more than 365 days after” are substituted for “a period or periods not exceeding 365 days in the aggregate beyond the time when” and “a period or periods not exceeding 365 days in the aggregate from” to eliminate unnecessary words.

In subsection (c)(1), the words “a tariff is suspended pending the outcome of a proceeding under subsection (a) of this section” are added for clarity. The words “and the Secretary does not take final action in the proceeding during the suspension period” are substituted for “the proceeding has not been concluded and an order made within the period of suspension or suspensions” and “the proceeding has not been concluded within the period of suspension or suspensions” to eliminate unnecessary words. The words “or if the Board shall otherwise so direct” are omitted as surplus because under subsection (b)(3) of this section the Secretary may rescind a suspension at any time.

In subsection (c)(2)(A), before clause (i), the words “or suspensions” are omitted because of 1:1. In clause (i), the words “corresponding seasonal” are added for clarity.

In subsection (c)(2)(B) and (3), the words “providing the same transportation” are substituted for “engaged in the same foreign air transportation” for consistency in this chapter and to eliminate unnecessary words.

In subsection (c)(2)(B), the words “of the carrier for the covered transportation” and “during the period of suspension or” are added for clarity.

In subsection (c)(3), the words “If an existing tariff is suspended or canceled” are added for clarity. The words “following cancellation of an existing tariff” are omitted as surplus.

In subsection (d), the word “properly” is omitted as surplus. In clause (1)(A), the words “the operation of” are omitted as surplus. The words “periods totaling not more than 365 days after the date of the suspension” are substituted for “for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the date of such suspension” for clarity and to eliminate unnecessary words. In subclause (B), the words “or suspensions” are omitted because of 1:1. In clause (2), the words “by the Secretary” are added for clarity.

In subsection (e)(1)(B), the words “within 30 days after February 15, 1980” are omitted as executed. The words “as the case may be” are omitted as surplus.

In subsection (e)(2), the text of 49 App.:1482(j)(6)(A) is omitted as expired. The words “with respect to any proposed increase filed with the Board after the 180th day after February 15, 1980” and “with respect to any proposed decrease filed after February 15, 1980” are omitted as obsolete. The words “of persons” are omitted as surplus because a “fare” is only for passengers. The words “The Secretary by regulation may increase the 50 percent specified in this paragraph” are substituted for 49 App.:1482(j)(10) for clarity.

In subsection (e)(3)(A), the words “unreasonably discriminatory” are substituted for “unduly preferential, unduly prejudicial, or unjustly discriminatory” to eliminate unnecessary words and for consistency in the revised title. See the revision notes following 49:10101.

In subsection (g), the words “express” and “now . . . or hereafter issued” are omitted as surplus. The words “may provide foreign air transportation only as long as” are substituted for “shall be a condition to the continuation of the affected service” for clarity.

REFERENCES IN TEXT

Section 1002(j)(8) of the Federal Aviation Act of 1958, referred to in subsec. (e)(1)(A)(i), is section 1002(j)(8) of Pub. L. 85-726, which was classified to section 1482(j)(8) of former Title 49, Transportation, prior to repeal by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379.

§ 41510. Required adherence to foreign air transportation tariffs

(a) PROHIBITED ACTIONS BY AIR CARRIERS, FOREIGN AIR CARRIERS, AND TICKET AGENTS.—An air carrier, foreign air carrier, or ticket agent may not—

(1) charge or receive compensation for foreign air transportation that is different from the price specified in the tariff of the carrier that is in effect for that transportation;

(2) refund or remit any part of the price specified in the tariff; or

(3) extend to any person a privilege or facility, related to a matter required by the Secretary of Transportation to be specified in a tariff for foreign air transportation, except as specified in the tariff.

(b) PROHIBITED ACTIONS BY ANY PERSON.—A person may not knowingly—

(1) pay compensation for foreign air transportation of property that is different from the price specified in the tariff in effect for that transportation; or

(2) solicit, accept, or receive—

(A) a refund or remittance of any part of the price specified in the tariff; or

(B) a privilege or facility, related to a matter required by the Secretary to be specified in a tariff for foreign air transportation of property, except as specified in the tariff.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1138.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41510(a)	49 App.:1373(b)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, §403(b)(1) (1st sentence), 72 Stat. 759; restated Jan. 3, 1975, Pub. L. 93–623, §§7(a), 8(a), 88 Stat. 2105.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(B) (related to §403(b)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(c), (e), 98 Stat. 1703, 1704.
41510(b)	49 App.:1373(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §403(b)(2); added Jan. 3, 1975, Pub. L. 93–623, §8(a), 88 Stat. 2105.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(2)), (b)(1)(E).	

In this section, the words “greater or less” are omitted as being included in “different”. The words “foreign air transportation” are substituted for “air transportation” because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs prices for the transportation of mail by aircraft. See section 40102(a) of the revised title defining “air transportation” to mean interstate or foreign air transportation or the transportation of mail by aircraft. The words “for any service in connection therewith” are omitted as surplus because the word “transportation” includes any services related to the transportation.

In subsection (a), before clause (1), the words “may not” are substituted for “no . . . shall” and “no . . . shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise” for clarity and to eliminate unnecessary words. In clause (1), the words “demand or collect” are omitted as being included in “charge or receive”. The words “then currently” are omitted as surplus. In clause (3),

the words “tariff for foreign air transportation” are substituted for “such tariffs” for clarity.

In subsection (b), before clause (1), the words “shipper, consignor, consignee, forwarder, broker, or other . . . or any director, officer, agent, or employee thereof” are omitted as surplus. In clause (1), the words “directly or indirectly, by any device or means” and “currently” are omitted as surplus. In clause (2), before subclause (A), the words “in any manner or by any device, directly or indirectly, through any agent or broker, or otherwise” are omitted as surplus. In subclause (B), the word “favor” is omitted as surplus.

§ 41511. Special prices for foreign air transportation

(a) FREE AND REDUCED PRICING.—This chapter does not prohibit an air carrier or foreign air carrier, under terms the Secretary of Transportation prescribes, from issuing or interchanging tickets or passes for free or reduced-price foreign air transportation to or for the following:

(1) a director, officer, or employee of the carrier (including a retired director, officer, or employee who is receiving retirement benefits from an air carrier or foreign air carrier).

(2) a parent or the immediate family of such an officer or employee or the immediate family of such a director.

(3) a widow, widower, or minor child of an employee of the carrier who died as a direct result of a personal injury sustained when performing a duty in the service of the carrier.

(4) a witness or attorney attending a legal investigation in which the air carrier is interested.

(5) an individual injured in an aircraft accident and a physician or nurse attending the individual.

(6) a parent or the immediate family of an individual injured or killed in an aircraft accident when the transportation is related to the accident.

(7) an individual or property to provide relief in a general epidemic, pestilence, or other emergency.

(8) other individuals under other circumstances the Secretary prescribes by regulation.

(b) SPACE-AVAILABLE BASIS.—Under terms the Secretary prescribes, an air carrier or foreign air carrier may grant reduced-price foreign air transportation on a space-available basis to the following:

(1) a minister of religion.

(2) an individual who is at least 60 years of age and no longer gainfully employed.

(3) an individual who is at least 65 years of age.

(4) an individual who has severely impaired vision or hearing or another physical or mental handicap and an accompanying attendant needed by that individual.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1139.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41511(a)	49 App.:1373(b)(1) (2d sentence).	Aug. 23, 1958, Pub. L. 85-726, § 403(b)(1) (2d- last sentences), 72 Stat. 759; July 12, 1960, Pub. L. 86-627, 74 Stat. 445; Jan. 3, 1975, Pub. L. 93-623, § 8(a), 88 Stat. 2105; Nov. 9, 1977, Pub. L. 95-163, § 8(a), 91 Stat. 1281.
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 1601(a)(4)(B) (related to § 403(b)(1)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, § 3(c), (e), 98 Stat. 1703, 1704.
41511(b)	49 App.:1373(b)(1) (3d-last sentences).	
	49 App.:1551(a)(4)(B) (related to 49 App.:1373(b)(1)), (b)(1)(E).	

In this section, the words “foreign air transportation” are substituted for “transportation” and “in the case of overseas or foreign air transportation” because 49 App.:1551(a)(4)(B) provides that 49 App.:1373 no longer applies to interstate or overseas air transportation and 49 App.:1376(a)–(e), restated in section 41901 of the revised title, governs rates for the transportation of mail by aircraft. See section 40102(a) of the revised title defining “air transportation” to mean interstate or foreign air transportation or the transportation of mail by aircraft. The word “conditions” is omitted as being included in “terms”.

In subsection (a)(7), the words “or other emergency” are substituted for “other calamitous visitation” for consistency.

In subsection (b)(2), the words “no longer gainfully employed” are substituted for “retired” and “For purposes of this subsection, the term ‘retired’ means no longer gainfully employed as defined by the Board” to eliminate unnecessary words.

In subsection (b)(4), the words “an individual who has severely impaired vision or hearing or another physical or mental handicap” are substituted for “handicapped person” and “For the purposes of this subsection, the term ‘handicapped person’ means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, as defined by the Board” to eliminate unnecessary words.

CHAPTER 417—OPERATIONS OF CARRIERS

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AMENDMENTS

2003—Pub. L. 108-176, title IV, §§ 408(b), 410(b), 422(b), title VIII, § 810(b), Dec. 12, 2003, 117 Stat. 2547, 2549, 2552, 2590, added items 41721 to 41723 and 41745 to 41748 and struck out former item 41721 “Reports by carriers on incidents involving animals during air transportation”.

2000—Pub. L. 106-181, title II, §§ 203(b), 204(b), 210(b), 231(j)(2), title VII, § 710(b), Apr. 5, 2000, 114 Stat. 93, 94, 102, 115, 160, added items 41715 to 41718, redesignated former items 41715 and 41716 as 41719 and 41720, respectively, and added items 41721, 41743, and 41744, subchapter III heading, and items 41761 to 41767.

1998—Pub. L. 105-277, div. C, title I, § 110(f)(2), Oct. 21, 1998, 112 Stat. 2681-590, which directed amendment of the analysis for subchapter I of chapter 417 by adding item 41716 without specifying the Code title or Act for chapter 417, was executed by adding item 41716 to this analysis to reflect the probable intent of Congress.

1996—Pub. L. 104-264, title II, § 278(d), Oct. 9, 1996, 110 Stat. 3250, substituted “Essential air service authorization” for “Ending effective date” in item 41742.

1994—Pub. L. 103-429, § 6(52), Oct. 31, 1994, 108 Stat. 4385, made technical correction to chapter heading.

Pub. L. 103-305, title II, §§ 206(b), 207(b), Aug. 23, 1994, 108 Stat. 1587, 1588, added items 41714 and 41715.

SUBCHAPTER I—REQUIREMENTS

§ 41701. Classification of air carriers

The Secretary of Transportation may establish—

- (1) reasonable classifications for air carriers when required because of the nature of the transportation provided by them; and

¹ So in original. Does not conform to section catchline.

(2) reasonable requirements for each class when the Secretary decides those requirements are necessary in the public interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1140.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41701	49 App.:1386(a). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, §416(a), 72 Stat. 771. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the words “from time to time” are omitted as unnecessary. In clauses (1) and (2), the word “just” is omitted as being included in “reasonable”. In clause (1), the word “groups” is omitted as being included in “classifications”. The words “transportation provided” are substituted for “services performed” for consistency in the revised title. In clause (2), the word “requirements” is substituted for “rules and regulations pursuant to and consistent with the provisions of this subchapter” as being more appropriate and for consistency in the revised title.

§ 41702. Interstate air transportation

An air carrier shall provide safe and adequate interstate air transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1140.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41702	49 App.:1374(a)(1). 49 App.:1551(a)(4)(C) (related to 49 App.:1374(a)(1)).	Aug. 23, 1958, Pub. L. 85–726, §404(a)(1), 72 Stat. 760; Mar. 22, 1972, Pub. L. 92–259, §1, 86 Stat. 95; Oct. 24, 1978, Pub. L. 95–504, §23, 92 Stat. 1724. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(a)(4)(C) (related to §404(a)(1)); added Oct. 4, 1984, Pub. L. 98–443, §3(c), 98 Stat. 1703.

This section is substituted for 49 App.:1374(a)(1) because 49 App.:1551(a)(4)(C) provides that 49 App.:1374 no longer applies to interstate or overseas air transportation except insofar as 49 App.:1374 requires air carriers to provide safe and adequate service.

§ 41703. Navigation of foreign civil aircraft

(a) PERMITTED NAVIGATION.—A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States only—

- (1) if the country of registry grants a similar privilege to aircraft of the United States;
- (2) by an airman holding a certificate or license issued or made valid by the United States Government or the country of registry;
- (3) if the Secretary of Transportation authorizes the navigation; and
- (4) if the navigation is consistent with terms the Secretary may prescribe.

(b) REQUIREMENTS FOR AUTHORIZING NAVIGATION.—The Secretary may authorize navigation under this section only if the Secretary decides the authorization is—

- (1) in the public interest; and

(2) consistent with any agreement between the Government and the government of a foreign country.

(c) PROVIDING AIR COMMERCE.—The Secretary may authorize an aircraft permitted to navigate in the United States under this section to provide air commerce in the United States. However, the aircraft may take on for compensation, at a place in the United States, passengers or cargo destined for another place in the United States only if—

- (1) specifically authorized under section 40109(g) of this title; or
- (2) under regulations the Secretary prescribes authorizing air carriers to provide otherwise authorized air transportation with foreign registered aircraft under lease or charter to them without crew.

(d) PERMIT REQUIREMENTS NOT AFFECTED.—This section does not affect section 41301 or 41302 of this title. However, a foreign air carrier holding a permit under section 41302 does not need to obtain additional authorization under this section for an operation authorized by the permit.

(e) CARGO IN ALASKA.—

(1) IN GENERAL.—For the purposes of subsection (c), eligible cargo taken on or off any aircraft at a place in Alaska in the course of transportation of that cargo by any combination of 2 or more air carriers or foreign air carriers in either direction between a place in the United States and a place outside the United States shall not be deemed to have broken its international journey in, be taken on in, or be destined for Alaska.

(2) ELIGIBLE CARGO.—For purposes of paragraph (1), the term “eligible cargo” means cargo transported between Alaska and any other place in the United States on a foreign air carrier (having been transported from, or thereafter being transported to, a place outside the United States on a different air carrier or foreign air carrier) that is carried—

(A) under the code of a United States air carrier providing air transportation to Alaska;

(B) on an air carrier way bill of an air carrier providing air transportation to Alaska;

(C) under a term arrangement or block space agreement with an air carrier; or

(D) under the code of a United States air carrier for purposes of transportation within the United States.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1140; Pub. L. 108–176, title VIII, §808, Dec. 12, 2003, 117 Stat. 2588.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41703(a)	49 App.:1508(b) (1st sentence). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, §1108(b) (1st, 2d, last sentences), 72 Stat. 798, 799. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41703(b)	49 App.:1508(b) (2d sentence).	
41703(c)	49 App.:1551(b)(1)(E). 49 App.:1508(b) (3d sentence).	Aug. 23, 1958, Pub. L. 85–726, §1108(b) (3d sentence), 72 Stat. 799; Feb. 15, 1980, Pub. L. 96–192, §20, 94 Stat. 43.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41703(d)	49 App.:1551(b)(1)(E). 49 App.:1508(b) (last sentence).	

In subsection (a), the word “country” is substituted for “nation” for consistency in the revised title and with other titles of the United States Code. In clause (3), the words “permit, order, or regulation issued” are omitted as surplus. In clause (4), the words “conditions, and limitations” are omitted as being included in “terms”.

In subsection (b)(2), the word “agreement” is substituted for “treaty, convention, or agreement” for clarity and consistency in the revised title. The words “which may be in force” are omitted as surplus. The words “or countries” are omitted because of 1:1.

In subsection (c), before clause (1), the word “place” is substituted for “point”, and the word “passengers” is substituted for “persons”, for consistency in the revised title.

In subsection (d), the word “affect” is substituted for “limit, modify, or amend” to eliminate unnecessary words.

AMENDMENTS

2003—Subsec. (e). Pub. L. 108–176 added subsec. (e).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

§ 41704. Transporting property not to be transported in aircraft cabins

Under regulations or orders of the Secretary of Transportation, an air carrier shall transport as baggage the property of a passenger traveling in air transportation that may not be carried in an aircraft cabin because of a law or regulation of the United States. The carrier is liable to pay an amount not more than the amount declared to the carrier by that passenger for actual loss of, or damage to, the property caused by the carrier. The carrier may impose reasonable charges and conditions for its liability.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41704	49 App.:1516. 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1116; added Aug. 5, 1974, Pub. L. 93–366, §205, 88 Stat. 418. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

The words “as may be necessary”, “which . . . lawfully”, and “by such person” are omitted as surplus. The words “The carrier is liable to pay an amount not more than” are substituted for “shall assume liability . . . within” for clarity. The words “to such person” are omitted as surplus. The words “The carrier may impose” are added for clarity. The words “terms and” are omitted as covered by “conditions”.

§ 41705. Discrimination against handicapped individuals

(a) IN GENERAL.—In providing air transportation, an air carrier, including (subject to sec-

tion 40105(b)) any foreign air carrier, may not discriminate against an otherwise qualified individual on the following grounds:

(1) the individual has a physical or mental impairment that substantially limits one or more major life activities.

(2) the individual has a record of such an impairment.

(3) the individual is regarded as having such an impairment.

(b) EACH ACT CONSTITUTES SEPARATE OFFENSE.—For purposes of section 46301, a separate violation occurs under this section for each individual act of discrimination prohibited by subsection (a).

(c) INVESTIGATION OF COMPLAINTS.—

(1) IN GENERAL.—The Secretary shall investigate each complaint of a violation of subsection (a).

(2) PUBLICATION OF DATA.—The Secretary shall publish disability-related complaint data in a manner comparable to other consumer complaint data.

(3) REVIEW AND REPORT.—The Secretary shall regularly review all complaints received by air carriers alleging discrimination on the basis of disability and shall report annually to Congress on the results of such review.

(4) TECHNICAL ASSISTANCE.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall—

(A) implement a plan, in consultation with the Department of Justice, the United States Architectural and Transportation Barriers Compliance Board, and the National Council on Disability, to provide technical assistance to air carriers and individuals with disabilities in understanding the rights and responsibilities set forth in this section; and

(B) ensure the availability and provision of appropriate technical assistance manuals to individuals and entities with rights or responsibilities under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141; Pub. L. 106–181, title VII, §707(a), Apr. 5, 2000, 114 Stat. 158; Pub. L. 108–176, title V, §503(d)(1), Dec. 12, 2003, 117 Stat. 2559.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41705	49 App.:1374(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §404(c); added Oct. 2, 1986, Pub. L. 99–435, §2(a), 100 Stat. 1080.

In this section, before clause (1), the words “on the following grounds” are substituted for “by reason of such handicap” and “For purposes of paragraph (1) of this subsection the term ‘handicapped individual’ means any individual who” because of the restatement.

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(4), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–176 substituted “section 46301” for “section 46301(a)(3)(E)”.

2000—Pub. L. 106–181 designated existing provisions as subsec. (a), inserted heading, substituted “carrier, in-

cluding (subject to section 40105(b)) any foreign air carrier,” for “carrier” in introductory provisions, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

ESTABLISHMENT OF HIGHER INTERNATIONAL STANDARDS

Pub. L. 106-181, title VII, §707(c), Apr. 5, 2000, 114 Stat. 158, provided that: “The Secretary [of Transportation] shall work with appropriate international organizations and the aviation authorities of other nations to bring about the establishment of higher standards for accommodating handicapped passengers in air transportation, particularly with respect to foreign air carriers that code-share with air carriers.”

RESTRICTIONS ON AIR TRANSPORTATION OF PEANUTS; SCIENTIFIC STUDY ON EFFECT OF AIRBORNE PARTICLES ON PASSENGERS

Pub. L. 106-69, title III, §346, Oct. 9, 1999, 113 Stat. 1023, provided that: “Hereafter, none of the funds made available under this Act or any other Act, may be used to implement, carry out, or enforce any regulation issued under section 41705 of title 49, United States Code, including any regulation contained in part 382 of title 14, Code of Federal Regulations, or any other provision of law (including any Act of Congress, regulation, or Executive order or any official guidance or correspondence thereto), that requires or encourages an air carrier (as that term is defined in section 40102 of title 49, United States Code) to, on intrastate or interstate air transportation (as those terms are defined in section 40102 of title 49, United States Code)—

“(1) provide a peanut-free buffer zone or any other related peanut-restricted area; or

“(2) restrict the distribution of peanuts, until 90 days after submission to the Congress and the Secretary of a peer-reviewed scientific study that determines that there are severe reactions by passengers to peanuts as a result of contact with very small airborne peanut particles of the kind that passengers might encounter in an aircraft.”

Similar provisions were contained in Pub. L. 105-277, div. A, §101(g) [title III, §372], Oct. 21, 1998, 112 Stat. 2681-439, 2681-479.

§ 41706. Prohibitions against smoking on scheduled flights

(a) **SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.**—An individual may not smoke in an aircraft in scheduled passenger interstate air transportation or scheduled passenger intrastate air transportation.

(b) **SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.**—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit smoking in any aircraft in scheduled passenger foreign air transportation.

(c) **LIMITATION ON APPLICABILITY.**—

(1) **IN GENERAL.**—If a foreign government objects to the application of subsection (b) on the basis that subsection (b) provides for an extraterritorial application of the laws of the United States, the Secretary shall waive the application of subsection (b) to a foreign air

carrier licensed by that foreign government at such time as an alternative prohibition negotiated under paragraph (2) becomes effective and is enforced by the Secretary.

(2) **ALTERNATIVE PROHIBITION.**—If, pursuant to paragraph (1), a foreign government objects to the prohibition under subsection (b), the Secretary shall enter into bilateral negotiations with the objecting foreign government to provide for an alternative smoking prohibition.

(d) **REGULATIONS.**—The Secretary shall prescribe such regulations as are necessary to carry out this section.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1141; Pub. L. 106-181, title VII, §708(a), Apr. 5, 2000, 114 Stat. 159.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41706	49 App.:1374(d)(1).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §404(d)(1); added Dec. 22, 1987, Pub. L. 100-202, §328(a), 101 Stat. 1329-382; Nov. 21, 1989, Pub. L. 101-164, §335 (less effective date), 103 Stat. 1098, 1099.
	49 App.:1374 (note).	Nov. 21, 1989, Pub. L. 101-164, §335 (related to effective date), 103 Stat. 1099.

In subsection (a), before clause (1), the words “On and after the date of expiration of the 4-month period following December 22, 1987” are omitted as executed. The words “of an aircraft” are added for clarity. The text of 49 App.:1374 (note) is omitted as executed.

AMENDMENTS

2000—Pub. L. 106-181 amended section catchline and text generally. Prior to amendment, text read as follows:

“(a) **GENERAL.**—An individual may not smoke in the passenger cabin or lavatory of an aircraft on a scheduled airline flight segment in air transportation or intrastate air transportation that is—

“(1) between places in a State of the United States, the District of Columbia, Puerto Rico, or the Virgin Islands;

“(2) between a place in any jurisdiction referred to in clause (1) of this subsection (except Alaska and Hawaii) and a place in any other of those jurisdictions; or

“(3)(A) scheduled for not more than 6 hours’ duration; and

“(B)(i) between a place referred to in clause (1) of this subsection (except Alaska and Hawaii) and Alaska or Hawaii; or

“(ii) between Alaska and Hawaii.

“(b) **REGULATIONS.**—The Secretary of Transportation shall prescribe regulations necessary to carry out this section.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-181, title VII, §708(b), Apr. 5, 2000, 114 Stat. 159, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date that is 60 days after the date of the enactment of this Act [Apr. 5, 2000].”

§ 41707. Incorporating contract terms into written instrument

To the extent the Secretary of Transportation prescribes by regulation, an air carrier may incorporate by reference in a ticket or written instrument any term of the contract for providing interstate air transportation.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41707	49 App.:1381(b).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §411(b); added Oct. 4, 1984, Pub. L. 98-443, §7(a), 98 Stat. 1706.

§ 41708. Reports

(a) APPLICATION.—To the extent the Secretary of Transportation finds necessary to carry out this subpart, this section and section 41709 of this title apply to a person controlling an air carrier or affiliated (within the meaning of section 11343(c) of this title) with a carrier.

(b) REQUIREMENTS.—The Secretary may require an air carrier or foreign air carrier—

(1)(A) to file annual, monthly, periodical, and special reports with the Secretary in the form and way prescribed by the Secretary; and (B) to file the reports under oath;

(2) to provide specific answers to questions on which the Secretary considers information to be necessary; and

(3) to file with the Secretary a copy of each agreement, arrangement, contract, or understanding between the carrier and another carrier or person related to transportation affected by this subpart.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41708(a)	49 App.:1377(e) (last sentence).	Aug. 23, 1958, Pub. L. 85-726, §407(e) (last sentence), 72 Stat. 766.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
41708(b)	49 App.:1377(a).	Aug. 23, 1958, Pub. L. 85-726, §407(a), 72 Stat. 766; Feb. 15, 1980, Pub. L. 96-192, §10, 94 Stat. 38.
	49 App.:1551(b)(1)(E).	

In subsection (a), the word “reasonably” is omitted as surplus. The words “carry out” are substituted for “administration” for consistency in the revised title. The words “section 11343(c) of this title” are substituted for “section 5(8) of the Interstate Commerce Act, as amended” in section 407(e) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 766), to cite the corresponding section of the revised title and correct the inaccurate reference to the definition of “affiliate”.

In subsection (b)(3), the word “copy” is substituted for “true copy” to eliminate an unnecessary word. The word “transportation” is substituted for “traffic” for consistency in the revised title.

§ 41709. Records of air carriers

(a) REQUIREMENTS.—The Secretary of Transportation shall prescribe the form of records to be kept by an air carrier, including records on the movement of traffic, receipts and expenditures of money, and the time period during which the records shall be kept. A carrier may keep only records prescribed or approved by the Secretary. However, a carrier may keep addi-

tional records if the additional records do not impair the integrity of the records prescribed or approved by the Secretary and are not an unreasonable financial burden on the carrier.

(b) INSPECTION.—(1) The Secretary at any time may—

(A) inspect the land, buildings, and equipment of an air carrier or foreign air carrier when necessary to decide under subchapter II of this chapter or section 41102, 41103, or 41302 of this title whether a carrier is fit, willing, and able; and

(B) inspect records kept or required to be kept by an air carrier, foreign air carrier, or ticket agent.

(2) The Secretary may employ special agents or auditors to carry out this subsection.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41709(a)	49 App.:1377(d).	Aug. 23, 1958, Pub. L. 85-726, §407(d), 72 Stat. 766.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
41709(b)	49 App.:1377(e) (1st-3d sentences).	Aug. 23, 1958, Pub. L. 85-726, §407(e) (1st-3d sentences), 72 Stat. 766; Jan. 3, 1975, Pub. L. 93-623, §7(b), 88 Stat. 2105; restated Oct. 4, 1984, Pub. L. 98-443, §9(t), 98 Stat. 1708.
	49 App.:1551(b)(1)(E).	

In subsection (a), the word “unreasonable” is substituted for “undue” for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1)(A) and (B), the word “inspect” is substituted for “have access to” for consistency in the revised title and with other titles of the Code.

In subsection (b)(2), the words “to carry out this subsection” are substituted for “who shall have authority under the orders of the Board to inspect and examine lands, buildings, equipment, accounts, records, and memorandums to which the Board has access under this subsection” to eliminate unnecessary words.

§ 41710. Time requirements

When a matter requiring action of the Secretary of Transportation is submitted under section 40109(a) or (c)-(h), 41309, or 42111 of this title and an evidentiary hearing—

(1) is ordered, the Secretary shall make a final decision on the matter not later than the last day of the 12th month that begins after the date the matter is submitted; or

(2) is not ordered, the Secretary shall make a final decision on the matter not later than the last day of the 6th month that begins after the date the matter is submitted.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41710	49 App.:1490.	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1010; added Oct. 24, 1978, Pub. L. 95-504, §38(a), 92 Stat. 1743.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.

In this section, before clause (1), the words “matter requiring action of the Secretary” are substituted for “application or other written document” for clarity. The reference to 49 App.:1378 and 1379 is omitted as obsolete because under 49 App.:1551(a)(7), those sections ceased to be in effect on January 1, 1989. The words “on or after the one-hundred-eightieth day after October 24, 1978” are omitted as executed. In clauses (1) and (2), the words “order or” are omitted as surplus.

§ 41711. Air carrier management inquiry and co-operation with other authorities

In carrying out this subpart, the Secretary of Transportation may—

(1) inquire into the management of the business of an air carrier and obtain from the air carrier, and a person controlling, controlled by, or under common control with the carrier, information the Secretary decides reasonably is necessary to carry out the inquiry;

(2) confer and hold a joint hearing with a State authority; and

(3) exchange information related to aeronautics with a government of a foreign country through appropriate departments, agencies, and instrumentalities of the United States Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1142.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41711(1)	49 App.:1385. 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, §§ 204(b), (c), 415, 72 Stat. 743, 770. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.
41711(2)	49 App.:1324(b). 49 App.:1551(b)(1)(E).	
41711(3)	49 App.:1324(c). 49 App.:1551(b)(1)(E).	

In this section, before clause (1), the words “In carrying out” are substituted for “in connection with any matter arising under this chapter within its jurisdiction” and “in the administration and enforcement of this chapter” in 49 App.:1324(b) and “For the purpose of exercising and performing its powers and duties under this chapter” in 49 App.:1385, and added (as the words relate to 49 App.:1324(c)), for clarity and consistency in this section. In clause (1), the words “full and complete reports and other” are omitted as surplus. In clause (2), the words “State aeronautical agency, or other” are omitted as surplus. The text of 49 App.:1324(b) (words after 3d comma) is omitted as surplus because of 49:322(c)(3). In clause (3), the words “government of a foreign country” are substituted for “foreign governments” for consistency in the revised title and with other titles of the United States Code.

§ 41712. Unfair and deceptive practices and unfair methods of competition

(a) IN GENERAL.—On the initiative of the Secretary of Transportation or the complaint of an air carrier, foreign air carrier, or ticket agent, and if the Secretary considers it is in the public interest, the Secretary may investigate and decide whether an air carrier, foreign air carrier, or ticket agent has been or is engaged in an unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation. If the Secretary, after notice and an opportunity for a hearing, finds that an

air carrier, foreign air carrier, or ticket agent is engaged in an unfair or deceptive practice or unfair method of competition, the Secretary shall order the air carrier, foreign air carrier, or ticket agent to stop the practice or method.

(b) E-TICKET EXPIRATION NOTICE.—It shall be an unfair or deceptive practice under subsection (a) for any air carrier, foreign air carrier, or ticket agent utilizing electronically transmitted tickets for air transportation to fail to notify the purchaser of such a ticket of its expiration date, if any.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1143; Pub. L. 106–181, title II, §221, Apr. 5, 2000, 114 Stat. 102.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41712	49 App.:1381(a). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, §411(a), 72 Stat. 769; Oct. 4, 1984, Pub. L. 98–443, §7(a), 98 Stat. 1706. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

The words “such action by” are omitted as surplus. The words “opportunity for a” are added for consistency in the revised title and with other titles of the United States Code.

AMENDMENTS

2000—Pub. L. 106–181 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 41713. Preemption of authority over prices, routes, and service

(a) DEFINITION.—In this section, “State” means a State, the District of Columbia, and a territory or possession of the United States.

(b) PREEMPTION.—(1) Except as provided in this subsection, a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier that may provide air transportation under this subpart.

(2) Paragraphs (1) and (4) of this subsection do not apply to air transportation provided entirely in Alaska unless the transportation is air transportation (except charter air transportation) provided under a certificate issued under section 41102 of this title.

(3) This subsection does not limit a State, political subdivision of a State, or political authority of at least 2 States that owns or operates an airport served by an air carrier holding a certificate issued by the Secretary of Transportation from carrying out its proprietary powers and rights.

(4) TRANSPORTATION BY AIR CARRIER OR CARRIER AFFILIATED WITH A DIRECT AIR CARRIER.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), a State, political subdivision of a State, or political authority of 2 or

more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier or carrier affiliated with a direct air carrier through common controlling ownership when such carrier is transporting property by aircraft or by motor vehicle (whether or not such property has had or will have a prior or subsequent air movement).

(B) MATTERS NOT COVERED.—Subparagraph (A)—

(i) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization; and

(ii) does not apply to the transportation of household goods, as defined in section 13102 of this title.

(C) APPLICABILITY OF PARAGRAPH (1).—This paragraph shall not limit the applicability of paragraph (1).

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1143; Pub. L. 103–305, title VI, § 601(b)(1), (2)(A), Aug. 23, 1994, 108 Stat. 1605, 1606; Pub. L. 105–102, § 2(23), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES PUB. L. 103–272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41713(a)	49 App.:1305(c), (d) (related to (a), (b)(1), (c)).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 105(a)(2), (b)(1), (c), (d) (related to (a), (b)(1), (c)); added Oct. 24, 1978, Pub. L. 95–504, § 4(a), 92 Stat. 1708.
41713(b)(1) ..	49 App.:1305(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 105(a)(1); added Oct. 24, 1978, Pub. L. 95–504, § 4(a), 92 Stat. 1707; Oct. 4, 1984, Pub. L. 98–443, § 9(u), 98 Stat. 1709.
41713(b)(2) ..	49 App.:1305(a)(2). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, § 3(e), 98 Stat. 1704.
41713(b)(3) ..	49 App.:1305(b)(1). 49 App.:1551(b)(1)(E).	

In subsection (a), the words “the term” are omitted as surplus. The words “the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and” are omitted as surplus because of the definition of “territory or possession of the United States” in section 40102(a) of the revised title, 48:734, and section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. The text of 49 App.:1305(c) is omitted as obsolete.

In subsection (b)(1) and (3), the words “interstate agency or other” are omitted as surplus. The word “authority” is substituted for “agency” for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the word “rule” is omitted as being synonymous with “regulation”. The words “standard” and “having authority” are omitted as surplus.

In subsection (b)(2), the words “pursuant to a certificate issued by the Board”, “by air of persons, property, or mail”, and “the State of” are omitted as surplus.

PUB. L. 105–102

This amends 49:41713(b)(4)(B)(ii) to correct a cross-reference necessary because of the restatement of subtitle IV of title 49 by the ICC Termination Act (Public Law 104–88, 109 Stat. 803).

AMENDMENTS

1997—Subsec. (b)(4)(B)(ii). Pub. L. 105–102 substituted “13102” for “10102”.

1994—Subsec. (b)(2). Pub. L. 103–305, § 601(b)(2)(A), substituted “Paragraphs (1) and (4) of this subsection do” for “Paragraph (1) of this subsection does”.

Subsec. (b)(4). Pub. L. 103–305, § 601(b)(1), added par. (4).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–305 effective Jan. 1, 1995, see section 601(d) of Pub. L. 103–305, set out as a note under section 10521 of this title.

§ 41714. Availability of slots

(a) MAKING SLOTS AVAILABLE FOR ESSENTIAL AIR SERVICE.—

(1) OPERATIONAL AUTHORITY.—If basic essential air service under subchapter II of this chapter is to be provided from an eligible point to a high density airport (other than Ronald Reagan Washington National Airport), the Secretary of Transportation shall ensure that the air carrier providing or selected to provide such service has sufficient operational authority at the high density airport to provide such service. The operational authority shall allow flights at reasonable times taking into account the needs of passengers with connecting flights.

(2) EXEMPTIONS.—If necessary to carry out the objectives of paragraph (1), the Secretary shall by order grant exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to air carriers using Stage 3 aircraft or to commuter air carriers, unless such an exemption would significantly increase operational delays.

(3) ASSURANCE OF ACCESS.—If the Secretary finds that an exemption under paragraph (2) would significantly increase operational delays, the Secretary shall take such action as may be necessary to ensure that an air carrier providing or selected to provide basic essential air service is able to obtain access to a high density airport.

(4) ACTION BY THE SECRETARY.—The Secretary shall issue a final order under this subsection on or before the 60th day after receiving a request from an air carrier for operational authority under this subsection.

(b) SLOTS FOR FOREIGN AIR TRANSPORTATION.—

(1) EXEMPTIONS.—If the Secretary finds it to be in the public interest at a high density airport (other than Ronald Reagan Washington National Airport), the Secretary may grant by order exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable air carriers and foreign air carriers to provide foreign air transportation using Stage 3 aircraft.

(2) SLOT WITHDRAWALS.—The Secretary may not withdraw a slot at Chicago O'Hare Inter-

national Airport from an air carrier in order to allocate that slot to a carrier to provide foreign air transportation.

(3) EQUIVALENT RIGHTS OF ACCESS.—The Secretary shall not take a slot at a high density airport from an air carrier and award such slot to a foreign air carrier if the Secretary determines that air carriers are not provided equivalent rights of access to airports in the country of which such foreign air carrier is a citizen.

(4) CONVERSIONS OF SLOTS.—Effective May 1, 2000, slots at Chicago O'Hare International Airport allocated to an air carrier as of November 1, 1999, to provide foreign air transportation shall be made available to such carrier to provide interstate or intrastate air transportation.

(c) SLOTS FOR NEW ENTRANTS.—If the Secretary finds it to be in the public interest, the Secretary may by order grant exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable new entrant air carriers to provide air transportation at high density airports (other than Ronald Reagan Washington National Airport).

(d) SPECIAL RULES FOR RONALD REAGAN WASHINGTON NATIONAL AIRPORT.—

(1) IN GENERAL.—Notwithstanding sections 49104(a)(5) and 49111(e) of this title, or any provision of this section, the Secretary may, only under circumstances determined by the Secretary to be exceptional, grant by order to an air carrier currently holding or operating a slot at Ronald Reagan Washington National Airport an exemption from requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at Ronald Reagan Washington National Airport), to enable that carrier to provide air transportation with Stage 3 aircraft at Ronald Reagan Washington National Airport; except that such exemption shall not—

(A) result in an increase in the total number of slots per day at Ronald Reagan Washington National Airport;

(B) result in an increase in the total number of slots at Ronald Reagan Washington National Airport from 7:00 ante meridiem to 9:59 post meridiem;

(C) increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period by more than 2 operations;

(D) result in the withdrawal or reduction of slots operated by an air carrier;

(E) result in a net increase in noise impact on surrounding communities resulting from changes in timing of operations permitted under this subsection; and

(F) continue in effect on or after the date on which the final rules issued under subsection (f) become effective.

(2) LIMITATION ON APPLICABILITY.—Nothing in this subsection shall adversely affect Exemption No. 5133, as from time-to-time amended and extended.

(e) STUDY.—

(1) MATTERS TO BE CONSIDERED.—The Secretary shall continue the Secretary's current examination of slot regulations and shall ensure that the examination includes consideration of—

(A) whether improvements in technology and procedures of the air traffic control system and the use of quieter aircraft make it possible to eliminate the limitations on hourly operations imposed by the high density rule contained in part 93 of title 14 of the Code of Federal Regulations or to increase the number of operations permitted under such rule;

(B) the effects of the elimination of limitations or an increase in the number of operations allowed on each of the following:

(i) congestion and delay in any part of the national aviation system;

(ii) the impact of noise on persons living near the airport;

(iii) competition in the air transportation system;

(iv) the profitability of operations of airlines serving the airport; and

(v) aviation safety;

(C) the impact of the current slot allocation process upon the ability of air carriers to provide essential air service under subchapter II of this chapter;

(D) the impact of such allocation process upon the ability of new entrant air carriers to obtain slots in time periods that enable them to provide service;

(E) the impact of such allocation process on the ability of foreign air carriers to obtain slots;

(F) the fairness of such process to air carriers and the extent to which air carriers are provided equivalent rights of access to the air transportation market in the countries of which foreign air carriers holding slots are citizens;

(G) the impact, on the ability of air carriers to provide domestic and international air service, of the withdrawal of slots from air carriers in order to provide slots for foreign air carriers; and

(H) the impact of the prohibition on slot withdrawals in subsections (b)(2) and (b)(3) of this section on the aviation relationship between the United States Government and foreign governments, including whether the prohibition in such subsections will require the withdrawal of slots from general and military aviation in order to meet the needs of air carriers and foreign air carriers providing foreign air transportation (and the impact of such withdrawal on general aviation and military aviation) and whether slots will become available to meet the needs of air carriers and foreign air carriers to provide foreign air transportation as a result of the planned relocation of Air Force Reserve units and the Air National Guard at O'Hare International Airport.

(2) REPORT.—Not later than January 31, 1995, the Secretary shall complete the current examination of slot regulations and shall transmit to the Committee on Commerce, Science,

and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the results of such examination.

(f) **RULEMAKING.**—The Secretary shall conduct a rulemaking proceeding based on the results of the study described in subsection (e). In the course of such proceeding, the Secretary shall issue a notice of proposed rulemaking not later than August 1, 1995, and shall issue a final rule not later than 90 days after public comments are due on the notice of proposed rulemaking.

(g) **WEEKEND OPERATIONS.**—The Secretary shall consider the advisability of revising section 93.227 of title 14, Code of Federal Regulations, so as to eliminate weekend schedules from the determination of whether the 80 percent standard of subsection (a)(1) of that section has been met.

(h) **DEFINITIONS.**—In this section and sections 41715–41718 and 41734(h), the following definitions apply:

(1) **COMMUTER AIR CARRIER.**—The term “commuter air carrier” means a commuter operator as defined or applied in subpart K or S of part 93 of title 14, Code of Federal Regulations.

(2) **HIGH DENSITY AIRPORT.**—The term “high density airport” means an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft.

(3) **NEW ENTRANT AIR CARRIER.**—The term “new entrant air carrier” means an air carrier that does not hold a slot at the airport concerned and has never sold or given up a slot at that airport after December 16, 1985, and a limited incumbent carrier.

(4) **SLOT.**—The term “slot” means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.

(5) **LIMITED INCUMBENT AIR CARRIER.**—The term “limited incumbent air carrier” has the meaning given that term in subpart S of part 93 of title 14, Code of Federal Regulations; except that—

(A) “20” shall be substituted for “12” in sections 93.213(a)(5), 93.223(c)(3), and 93.225(h);

(B) for purposes of such sections, the term “slot” shall include “slot exemptions”; and

(C) for Ronald Reagan Washington National Airport, the Administrator shall not count, for the purposes of section 93.213(a)(5), slots currently held by an air carrier but leased out on a long-term basis by that carrier for use in foreign air transportation and renounced by the carrier for return to the Department of Transportation or the Federal Aviation Administration.

(6) **REGIONAL JET.**—The term “regional jet” means a passenger, turbofan-powered aircraft with a certificated maximum passenger seating capacity of less than 71.

(7) **NONHUB AIRPORT.**—The term “nonhub airport” means an airport that had less than .05 percent of the total annual boardings in the United States as determined under the Federal Aviation Administration’s Primary Airport Enplanement Activity Summary for Calendar Year 1997.

(8) **SMALL HUB AIRPORT.**—The term “small hub airport” means an airport that had at least .05 percent, but less than .25 percent, of the total annual boardings in the United States as determined under the summary referred to in paragraph (7).

(9) **MEDIUM HUB AIRPORT.**—The term “medium hub airport” means an airport that each year has at least .25 percent, but less than 1.0 percent, of the total annual boardings in the United States as determined under the summary referred to in paragraph (7).

(i) **60-DAY APPLICATION PROCESS.**—

(1) **REQUEST FOR SLOT EXEMPTIONS.**—Any slot exemption request filed with the Secretary under this section or section 41716 or 41717 (other than subsection (c)) shall include—

(A) the names of the airports to be served;

(B) the times requested; and

(C) such additional information as the Secretary may require.

(2) **ACTION ON REQUEST; FAILURE TO ACT.**—Within 60 days after a slot exemption request under this section or section 41716 or 41717 (other than subsection (c)) is received by the Secretary, the Secretary shall—

(A) approve the request if the Secretary determines that the requirements of the section under which the request is made are met;

(B) return the request to the applicant for additional information relating to the request to provide air transportation; or

(C) deny the request and state the reasons for its denial.

(3) **60-DAY PERIOD TOLLED FOR TIMELY REQUEST FOR MORE INFORMATION.**—If the Secretary returns under paragraph (2)(B) the request for additional information during the first 20 days after the request is filed, then the 60-day period under paragraph (2) shall be tolled until the date on which the additional information is filed with the Secretary.

(4) **FAILURE TO DETERMINE DEEMED APPROVAL.**—If the Secretary neither approves the request under paragraph (2)(A) nor denies the request under paragraph (2)(C) within the 60-day period beginning on the date the request is received, excepting any days during which the 60-day period is tolled under paragraph (3), then the request is deemed to have been approved on the 61st day, after the request was filed with the Secretary.

(j) **EXEMPTIONS MAY NOT BE TRANSFERRED.**—No exemption from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations, granted under this section or section 41716, 41717, or 41718 may be bought, sold, leased, or otherwise transferred by the carrier to which it is granted.

(k) **AFFILIATED CARRIERS.**—For purposes of this section and sections 41716, 41717, and 41718, an air carrier that operates under the same designator code, or has or enters into a code-share agreement, with any other air carrier shall not qualify for a new slot or slot exemption as a new entrant or limited incumbent air carrier at an airport if the total number of slots and slot exemptions held by the two carriers at the airport exceed 20 slots and slot exemptions.

(Added Pub. L. 103–305, title II, §206(a)(1), Aug. 23, 1994, 108 Stat. 1584; amended Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–66, title III, §345, Oct. 27, 1997, 111 Stat. 1449; Pub. L. 105–102, §2(24), Nov. 20, 1997, 111 Stat. 2205; Pub. L. 105–154, §2(a)(1)(C), (2), Feb. 6, 1998, 112 Stat. 3; Pub. L. 106–181, title II, §231(a), (d)(2)–(4), Apr. 5, 2000, 114 Stat. 106, 112.)

HISTORICAL AND REVISION NOTES

PUB. L. 105–102

This amends 49:41714(d)(1) to make a conforming cross-reference necessary because of the restatement of the Metropolitan Washington Airports Act of 1986 (Public Law 99–500, 100 Stat. 1783–373, Public Law 99–591, 100 Stat. 3341–376) by section 2(26) of this Act as chapter 491 of title 49.

AMENDMENTS

2000—Subsec. (a)(3). Pub. L. 106–181, §231(d)(2), struck out before period at end “; except that the Secretary shall not be required to make slots available at O’Hare International Airport in Chicago, Illinois, if the number of slots available for basic essential air service (including slots specifically designated as essential air service slots and slots used for such purposes) to and from such airport is at least 132 slots”.

Subsec. (b)(2). Pub. L. 106–181, §231(d)(3), inserted “at Chicago O’Hare International Airport” after “a slot” and struck out before period at end “if the withdrawal of that slot would result in the withdrawal of slots from an air carrier at O’Hare International Airport under section 93.223 of title 14, Code of Federal Regulations, in excess of the total withdrawn from that air carrier as of October 31, 1993”.

Subsec. (b)(4). Pub. L. 106–181, §231(d)(4), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: “This subsection and exemptions issued under this subsection shall cease to be in effect when the final rules issued under subsection (f) become effective.”

Subsec. (c). Pub. L. 106–181, §231(a)(4), reenacted subsec. heading and struck out “(1) IN GENERAL.—” before “If the Secretary finds”, “and the circumstances to be exceptional” before “, the Secretary may by”, and par. (2) heading and text. Text of par. (2) read as follows: “Exemptions issued under this subsection shall cease to be in effect on or after the date on which the final rules issued under subsection (f) become effective.”

Subsec. (h). Pub. L. 106–181, §231(a)(5)(A), in introductory provisions, substituted “and sections 41715–41718 and 41734(h)” for “and section 41734(h)”.

Subsec. (h)(3). Pub. L. 106–181, §231(a)(5)(B), struck out “as defined in subpart S of part 93 of title 14, Code of Federal Regulations” before period at end.

Subsec. (h)(5) to (9). Pub. L. 106–181, §231(a)(5)(C), added pars. (5) to (9).

Subsec. (i). Pub. L. 106–181, §231(a)(1), amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: “Within 120 days after receiving an application for an exemption under subsection (a)(2) to improve air service between a nonhub airport (as defined in section 41731(a)(4)) and a high density airport subject to the exemption authority under subsection (a), the Secretary shall grant or deny the exemption. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure of the grant or denial within 14 calendar days after the determination and state the reasons for the determination.”

Subsecs. (j), (k). Pub. L. 106–181, §231(a)(2), (3), added subsecs. (j) and (k).

1998—Subsecs. (a)(1), (b)(1), (c)(1), (d). Pub. L. 105–154 substituted “Ronald Reagan Washington National Airport” for “Washington National Airport” wherever appearing in text and in subsec. (d) heading.

1997—Subsec. (d)(1). Pub. L. 105–102 substituted “sections 49104(a)(5) and 49111(e) of this title” for “sections

6005(c)(5) and 6009(e) of the Metropolitan Washington Airports Act of 1986”.

Subsec. (i). Pub. L. 105–66 added subsec. (i).

1996—Subsec. (e)(2). Pub. L. 104–287 substituted “Transportation and Infrastructure” for “Public Works and Transportation”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

RETURN OF WITHDRAWN SLOTS

Pub. L. 106–181, title II, §231(d)(5), Apr. 5, 2000, 114 Stat. 112, provided that: “The Secretary [of Transportation] shall return any slot withdrawn from an air carrier under section 41714(b) of title 49, United States Code, before the date of the enactment of this Act [Apr. 5, 2000], to that carrier on April 30, 2000.”

§ 41715. Phase-out of slot rules at certain airports

(a) TERMINATION.—The rules contained in subparts S and K of part 93, title 14, Code of Federal Regulations, shall not apply—

(1) after July 1, 2002, at Chicago O’Hare International Airport; and

(2) after January 1, 2007, at LaGuardia Airport or John F. Kennedy International Airport.

(b) STATUTORY CONSTRUCTION.—Nothing in this section and sections 41714 and 41716–41718 shall be construed—

(1) as affecting the Federal Aviation Administration’s authority for safety and the movement of air traffic; and

(2) as affecting any other authority of the Secretary to grant exemptions under section 41714.

(c) FACTORS TO CONSIDER.—

(1) IN GENERAL.—Before the award of slot exemptions under sections 41714 and 41716–41718, the Secretary of Transportation may consider, among other determining factors, whether the petitioning air carrier’s proposal provides the maximum benefit to the United States economy, including the number of United States jobs created by the air carrier, its suppliers, and related activities. The Secretary should give equal consideration to the consumer benefits associated with the award of such exemptions.

(2) APPLICABILITY.—Paragraph (1) does not apply in any case in which the air carrier requesting the slot exemption is proposing to use under the exemption a type of aircraft for which there is not a competing United States manufacturer.

(Added Pub. L. 106–181, title II, §231(b)(2), Apr. 5, 2000, 114 Stat. 108.)

PRIOR PROVISIONS

A prior section 41715 was renumbered section 41719 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41716. Interim slot rules at New York airports

(a) EXEMPTIONS FOR AIR SERVICE TO SMALL AND NONHUB AIRPORTS.—Subject to section 41714(i),

the Secretary of Transportation shall grant, by order, exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports) to any air carrier to provide nonstop air transportation, using an aircraft with a certificated maximum seating capacity of less than 71, between LaGuardia Airport or John F. Kennedy International Airport and a small hub airport or nonhub airport—

(1) if the air carrier was not providing such air transportation during the week of November 1, 1999;

(2) if the number of flights to be provided between such airports by the air carrier during any week will exceed the number of flights provided by the air carrier between such airports during the week of November 1, 1999; or

(3) if the air transportation to be provided under the exemption will be provided with a regional jet as replacement of turboprop air transportation that was being provided during the week of November 1, 1999.

(b) **EXEMPTIONS FOR NEW ENTRANT AND LIMITED INCUMBENT AIR CARRIERS.**—Subject to section 41714(i), the Secretary shall grant, by order, exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to any new entrant air carrier or limited incumbent air carrier to provide air transportation to or from LaGuardia Airport or John F. Kennedy International Airport if the number of slot exemptions granted under this subsection to such air carrier with respect to such airport when added to the slots and slot exemptions held by such air carrier with respect to such airport does not exceed 20; except that the Secretary may grant not to exceed 4 additional slot exemptions at LaGuardia Airport to an incumbent air carrier operating at least 20 but not more than 28 slots at such airport as of October 1, 2004, to provide air transportation between LaGuardia Airport and a small hub airport or nonhub airport.

(c) **STAGE 3 AIRCRAFT REQUIRED.**—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

(d) **PRESERVATION OF CERTAIN EXISTING SLOT-RELATED AIR SERVICE.**—An air carrier that provides air transportation of passengers from LaGuardia Airport or John F. Kennedy International Airport to a small hub airport or nonhub airport, or to an airport that is smaller than a nonhub airport, on or before the date of the enactment of this subsection pursuant to an exemption from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), or where slots were issued to an air carrier conditioned on a specific airport being served, may not terminate air transportation for that route before July 1, 2003, unless—

(1) before October 1, 1999, the Secretary received a written air service termination notice for that route; or

(2) after September 30, 1999, the air carrier submits an air service termination notice under section 41719 for that route and the Secretary determines that the carrier suffered ex-

cessive losses, including substantial losses on operations on that route during any three quarters of the year immediately preceding the date of submission of the notice.

(Added Pub. L. 106-181, title II, § 231(c), Apr. 5, 2000, 114 Stat. 109; amended Pub. L. 108-447, div. H, title I, § 199, Dec. 8, 2004, 118 Stat. 3235.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (d), is the date of enactment of Pub. L. 106-181, which was approved Apr. 5, 2000.

PRIOR PROVISIONS

A prior section 41716 was renumbered section 41720 of this title.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-447 inserted before period at end “; except that the Secretary may grant not to exceed 4 additional slot exemptions at LaGuardia Airport to an incumbent air carrier operating at least 20 but not more than 28 slots at such airport as of October 1, 2004, to provide air transportation between LaGuardia Airport and a small hub airport or nonhub airport”.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41717. Interim application of slot rules at Chicago O'Hare International Airport

(a) **SLOT OPERATING WINDOW NARROWED.**—Effective July 1, 2001, the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations, do not apply with respect to aircraft operating before 2:45 post meridiem and after 8:14 post meridiem at Chicago O'Hare International Airport.

(b) **EXEMPTIONS FOR AIR SERVICE TO SMALL AND NONHUB AIRPORTS.**—Effective May 1, 2000, subject to section 41714(i), the Secretary of Transportation shall grant, by order, exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to any air carrier to provide nonstop air transportation, using an aircraft with a certificated maximum seating capacity of less than 71, between Chicago O'Hare International Airport and a small hub or nonhub airport—

(1) if the air carrier was not providing such air transportation during the week of November 1, 1999;

(2) if the number of flights to be provided between such airports by the air carrier during any week will exceed the number of flights provided by the air carrier between such airports during the week of November 1, 1999; or

(3) if the air transportation to be provided under the exemption will be provided with a regional jet as replacement of turboprop air transportation that was being provided during the week of November 1, 1999.

(c) **EXEMPTIONS FOR NEW ENTRANT AND LIMITED INCUMBENT AIR CARRIERS.**—

(1) **IN GENERAL.**—The Secretary shall grant, by order, 30 exemptions from the requirements under subparts K and S of part 93 of title 14,

Code of Federal Regulations, to any new entrant air carrier or limited incumbent air carrier to provide air transportation to or from Chicago O'Hare International Airport.

(2) **DEADLINE FOR GRANTING EXEMPTIONS.**—The Secretary shall grant an exemption under paragraph (1) within 45 days of the date of the request for such exemption if the person making the request qualifies as a new entrant air carrier or limited incumbent air carrier.

(d) **SLOTS USED TO PROVIDE TURBOPROP SERVICE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), a slot used to provide turboprop air transportation that is replaced with regional jet air transportation under subsection (b)(3) may not be used, sold, leased, or otherwise transferred after the date the slot exemption is granted to replace the turboprop air transportation.

(2) **TWO-FOR-ONE EXCEPTION.**—An air carrier that otherwise could not use 2 slots as a result of paragraph (1) may use 1 of such slots to provide air transportation.

(3) **WITHDRAWAL OF SLOT.**—If the Secretary determines that an air carrier that is using a slot under paragraph (2) is no longer providing the air transportation that replaced the turboprop air transportation, the Secretary shall withdraw the slot that is being used under paragraph (2).

(4) **CONTINUATION.**—If the Secretary determines that an air carrier that is using a slot under paragraph (2) is no longer providing the air transportation that replaced the turboprop air transportation with a regional jet, the Secretary shall withdraw the slot being used by the air carrier under paragraph (2) but shall allow the air carrier to continue to hold the exemption granted to the air carrier under subsection (b)(3).

(e) **INTERNATIONAL SERVICE AT O'HARE AIRPORT.**—

(1) **TERMINATION OF REQUIREMENTS.**—Subject to paragraph (2), the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations, shall be of no force and effect at Chicago O'Hare International Airport after May 1, 2000, with respect to any aircraft providing foreign air transportation.

(2) **EXCEPTION RELATING TO RECIPROCITY.**—The Secretary may limit access to Chicago O'Hare International Airport with respect to foreign air transportation being provided by a foreign air carrier domiciled in a country to which an air carrier provides nonstop air transportation from the United States if the country in which that carrier is domiciled does not provide reciprocal airport access for air carriers.

(f) **STAGE 3 AIRCRAFT REQUIRED.**—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

(g) **PRESERVATION OF CERTAIN EXISTING SLOT-RELATED AIR SERVICE.**—An air carrier that provides air transportation of passengers from Chicago O'Hare International Airport to a small hub airport or nonhub airport, or to an airport that is smaller than a nonhub airport, on or be-

fore the date of the enactment of this subsection pursuant to an exemption from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), or where slots were issued to an air carrier conditioned on a specific airport being served, may not terminate air transportation service for that route for a period of 1 year after the date on which those requirements cease to apply to such airport unless—

(1) before October 1, 1999, the Secretary received a written air service termination notice for that route; or

(2) after September 30, 1999, the air carrier submits an air service termination notice under section 41719 for that route and the Secretary determines that the carrier suffered excessive losses, including substantial losses on operations on that route during the calendar quarters immediately preceding submission of the notice.

(Added Pub. L. 106-181, title II, § 231(d)(1), Apr. 5, 2000, 114 Stat. 110.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (g), is the date of enactment of Pub. L. 106-181, which was approved Apr. 5, 2000.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41718. Special rules for Ronald Reagan Washington National Airport

(a) **BEYOND-PERIMETER EXEMPTIONS.**—The Secretary shall grant, by order, 24 exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on select routes between Ronald Reagan Washington National Airport and domestic hub airports and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

(1) provide air transportation with domestic network benefits in areas beyond the perimeter described in that section;

(2) increase competition by new entrant air carriers or in multiple markets;

(3) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109; and

(4) not result in meaningfully increased travel delays.

(b) **WITHIN-PERIMETER EXEMPTIONS.**—The Secretary shall grant, by order, 20 exemptions from the requirements of sections 49104(a)(5), 49111(e), and 41714 of this title and subparts K and S of part 93 of title 14, Code of Federal Regulations, to air carriers for providing air transportation to airports within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport under section 49109. The Secretary shall develop criteria for distributing slot exemptions for flights within the perimeter to such airports under this para-

graph in a manner that promotes air transportation—

- (1) by new entrant air carriers and limited incumbent air carriers;
- (2) to communities without existing nonstop air transportation to Ronald Reagan Washington National Airport;
- (3) to small communities;
- (4) that will provide competitive nonstop air transportation on a monopoly nonstop route to Ronald Reagan Washington National Airport; or
- (5) that will produce the maximum competitive benefits, including low fares.

(c) LIMITATIONS.—

(1) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

(2) GENERAL EXEMPTIONS.—The exemptions granted under subsections (a) and (b) may not be for operations between the hours of 10:00 p.m. and 7:00 a.m. and may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than 3 operations.

(3) ALLOCATION OF WITHIN-PERIMETER EXEMPTIONS.—Of the exemptions granted under subsection (b)—

(A) without regard to the criteria contained in subsection (b)(1), six shall be for air transportation to small hub airports and nonhub airports;

(B) ten shall be for air transportation to medium hub and smaller airports; and

(C) four shall be for air transportation to airports without regard to their size.

(4) APPLICABILITY TO EXEMPTION NO. 5133.—Nothing in this section affects Exemption No. 5133, as from time-to-time amended and extended.

(d) APPLICATION PROCEDURES.—The Secretary shall establish procedures to ensure that all requests for exemptions under this section are granted or denied within 90 days after the date on which the request is made.

(e) APPLICABILITY OF CERTAIN LAWS.—Neither the request for, nor the granting of an exemption, under this section shall be considered for purposes of any Federal law a major Federal action significantly affecting the quality of the human environment.

(f) COMMUTERS DEFINED.—For purposes of aircraft operations at Ronald Reagan Washington National Airport under subpart K of part 93 of title 14, Code of Federal Regulations, the term “commuters” means aircraft operations using aircraft having a certificated maximum seating capacity of 76 or less.

(Added Pub. L. 106–181, title II, § 231(e)(1), Apr. 5, 2000, 114 Stat. 112; amended Pub. L. 108–176, title IV, §§ 425, 426(a), Dec. 12, 2003, 117 Stat. 2555.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–176, § 425(a), substituted “24 exemptions” for “12 exemptions” in introductory provisions.

Subsec. (b). Pub. L. 108–176, § 425(b), in introductory provisions, substituted “20 exemptions” for “12 exemp-

tions” and struck out “that were designated as medium hub or smaller airports” before “within the perimeter established”.

Subsec. (c)(2). Pub. L. 108–176, § 425(c)(1), substituted “3 operations” for “two operations”.

Subsec. (c)(3)(A). Pub. L. 108–176, § 425(c)(2)(A), substituted “without regard to the criteria contained in subsection (b)(1), six” for “four” and struck out “and” at end.

Subsec. (c)(3)(B). Pub. L. 108–176, § 425(c)(2)(B), substituted “ten” for “eight” and “; and” for period at end.

Subsec. (c)(3)(C). Pub. L. 108–176, § 425(c)(2)(C), added subpar. (C).

Subsec. (d). Pub. L. 108–176, § 425(d), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows:

“(1) DEADLINE FOR SUBMISSION.—All requests for exemptions under this section must be submitted to the Secretary not later than the 30th day following the date of the enactment of this subsection.

“(2) DEADLINE FOR COMMENTS.—All comments with respect to any request for an exemption under this section must be submitted to the Secretary not later than the 45th day following the date of the enactment of this subsection.

“(3) DEADLINE FOR FINAL DECISION.—Not later than the 90th day following the date of the enactment of this Act, the Secretary shall make a decision regarding whether to approve or deny any request that is submitted to the Secretary in accordance with paragraph (1).”

Subsec. (f). Pub. L. 108–176, § 426(a), added subsec. (f).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

REGULATIONS

Pub. L. 108–176, title IV, § 426(b), Dec. 12, 2003, 117 Stat. 2556, provided that: “The Administrator of the Federal Aviation Administration shall revise regulations to take into account the amendment made by subsection (a) [amending this section].”

GENERAL AVIATION FLIGHTS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT

Pub. L. 108–176, title VIII, § 823, Dec. 12, 2003, 117 Stat. 2595, provided that:

“(a) SECURITY PLAN.—The Secretary of Homeland Security shall develop and implement a security plan to permit general aviation aircraft to land and take off at Ronald Reagan Washington National Airport.

“(b) LANDINGS AND TAKEOFFS.—The Administrator of the Federal Aviation Administration shall allow general aviation aircraft that comply with the requirements of the security plan to land and take off at the Airport except during any period that the President suspends the plan developed under subsection (a) due to national security concerns.

“(c) REPORT.—If the President suspends the security plan developed under subsection (a), the President shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the reasons for the suspension not later than 30 days following the first day of the suspension. The report may be submitted in classified form.”

§ 41719. Air service termination notice

(a) IN GENERAL.—An air carrier may not terminate interstate air transportation from a

nonhub airport included on the Secretary of Transportation's latest published list of such airports, unless such air carrier has given the Secretary at least 45 days' notice before such termination.

(b) **EXCEPTIONS.**—The requirements of subsection (a) shall not apply when—

(1) the carrier involved is experiencing a sudden or unforeseen financial emergency, including natural weather related emergencies, equipment-related emergencies, and strikes;

(2) the termination of transportation is made for seasonal purposes only;

(3) the carrier involved has operated at the affected nonhub airport for 180 days or less;

(4) the carrier involved provides other transportation by jet from another airport serving the same community as the affected nonhub airport; or

(5) the carrier involved makes alternative arrangements, such as a change of aircraft size, or other types of arrangements with a part 121 or part 135 air carrier, that continues uninterrupted service from the affected nonhub airport.

(c) **WAIVERS FOR REGIONAL/COMMUTER CARRIERS.**—Before January 1, 1995, the Secretary shall establish terms and conditions under which regional/commuter carriers can be excluded from the termination notice requirement.

(d) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **PART 121 AIR CARRIER.**—The term “part 121 air carrier” means an air carrier to which part 121 of title 14, Code of Federal Regulations, applies.

(2) **PART 135 AIR CARRIER.**—The term “part 135 air carrier” means an air carrier to which part 135 of title 14, Code of Federal Regulations, applies.

(3) **REGIONAL/COMMUTER CARRIERS.**—The term “regional/commuter carrier” means—

(A) a part 135 air carrier; or

(B) a part 121 air carrier that provides air transportation exclusively with aircraft having a seating capacity of no more than 70 passengers.

(4) **TERMINATION.**—The term “termination” means the cessation of all service at an airport by an air carrier.

(Added Pub. L. 103-305, title II, § 207(a), Aug. 23, 1994, 108 Stat. 1587, § 41715; amended Pub. L. 103-429, § 6(53), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104-287, § 5(73), Oct. 11, 1996, 110 Stat. 3396; renumbered § 41719, Pub. L. 106-181, title II, § 231(b)(1), Apr. 5, 2000, 114 Stat. 108; Pub. L. 108-176, title II, § 225(b)(1), Dec. 12, 2003, 117 Stat. 2528.)

HISTORICAL AND REVISION NOTES

This amends 49:41715(a) to conform to the style of title 49.

AMENDMENTS

2003—Subsec. (d). Pub. L. 108-176 redesignated pars. (2) to (5) as (1) to (4), respectively, and struck out former par. (1) which defined “nonhub airport”.

2000—Pub. L. 106-181 renumbered section 41715 of this title as this section.

1996—Subsec. (a). Pub. L. 104-287 substituted “Secretary of Transportation's” for “Secretary's”.

1994—Subsec. (d)(1). Pub. L. 103-429 substituted “41731(a)(4)” for “41731(a)(3)”.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section 207(d) of Pub. L. 103-305 provided that: “The amendments made by this section [enacting this section and amending section 46301 of this title] shall take effect on February 1, 1995.”

§ 41720. Joint venture agreements

(a) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **JOINT VENTURE AGREEMENT.**—The term “joint venture agreement” means an agreement between two or more major air carriers on or after January 1, 1998, with regard to (A) code-sharing, blocked-space arrangements, long-term wet leases (as defined in section 207.1 of title 14, Code of Federal Regulations) of a substantial number (as defined by the Secretary by regulation) of aircraft, or frequent flyer programs, or (B) any other cooperative working arrangement (as defined by the Secretary by regulation) between 2 or more major air carriers that affects more than 15 percent of the total number of available seat miles offered by the major air carriers.

(2) **MAJOR AIR CARRIER.**—The term “major air carrier” means a passenger air carrier that is certificated under chapter 411 of this title and included in Carrier Group III under criteria contained in section 04 of part 241 of title 14, Code of Federal Regulations.

(b) **SUBMISSION OF JOINT VENTURE AGREEMENT.**—At least 30 days before a joint venture agreement may take effect, each of the major air carriers that entered into the agreement shall submit to the Secretary—

(1) a complete copy of the joint venture agreement and all related agreements; and

(2) other information and documentary material that the Secretary may require by regulation.

(c) **EXTENSION OF WAITING PERIOD.**—

(1) **IN GENERAL.**—The Secretary may extend the 30-day period referred to in subsection (b) until—

(A) in the case of a joint venture agreement with regard to code-sharing, the 150th day following the last day of such period; and

(B) in the case of any other joint venture agreement, the 60th day following the last day of such period.

(2) **PUBLICATION OF REASONS FOR EXTENSION.**—If the Secretary extends the 30-day period referred to in subsection (b), the Secretary shall publish in the Federal Register the Secretary's reasons for making the extension.

(d) **TERMINATION OF WAITING PERIOD.**—At any time after the date of submission of a joint venture agreement under subsection (b), the Sec-

retary may terminate the waiting periods referred to in subsections (b) and (c) with respect to the agreement.

(e) **REGULATIONS.**—The effectiveness of a joint venture agreement may not be delayed due to any failure of the Secretary to issue regulations to carry out this section.

(f) **MEMORANDUM TO PREVENT DUPLICATIVE REVIEWS.**—Promptly after the date of enactment of this section, the Secretary shall consult with the Assistant Attorney General of the Antitrust Division of the Department of Justice in order to establish, through a written memorandum of understanding, preclearance procedures to prevent unnecessary duplication of effort by the Secretary and the Assistant Attorney General under this section and the antitrust laws of the United States, respectively.

(g) **PRIOR AGREEMENTS.**—With respect to a joint venture agreement entered into before the date of enactment of this section as to which the Secretary finds that—

(1) the parties submitted the agreement to the Secretary before such date of enactment; and

(2) the parties submitted all information on the agreement requested by the Secretary,

the waiting period described in paragraphs (2) and (3) shall begin on the date, as determined by the Secretary, on which all such information was submitted and end on the last day to which the period could be extended under this section.

(h) **LIMITATION ON STATUTORY CONSTRUCTION.**—The authority granted to the Secretary under this section shall not in any way limit the authority of the Attorney General to enforce the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).

(Added Pub. L. 105-277, div. C, title I, § 110(f)(1), Oct. 21, 1998, 112 Stat. 2681-588, § 41716; renumbered § 41720 and amended Pub. L. 106-181, title II, § 231(b)(1), title VII, § 709, Apr. 5, 2000, 114 Stat. 108, 159.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (f) and (g), is the date of enactment of Pub. L. 105-277, which was approved Oct. 21, 1998.

CODIFICATION

Pub. L. 105-277, § 110(f)(1), which directed amendment of subchapter I of chapter 417 by adding this section at the end, without specifying a Code title or Act, was executed by adding this section at the end of this subchapter to reflect the probable intent of Congress.

AMENDMENTS

2000—Pub. L. 106-181, § 231(b)(1), renumbered section 41716 of this title as this section.

Subsec. (a)(1). Pub. L. 106-181, § 709, substituted “an agreement between two or more major air carriers” for “an agreement entered into by a major air carrier”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

§ 41721. Reports by carriers on incidents involving animals during air transport

(a) **IN GENERAL.**—An air carrier that provides scheduled passenger air transportation shall

submit monthly to the Secretary a report on any incidents involving the loss, injury, or death of an animal (as defined by the Secretary of Transportation) during air transport provided by the air carrier. The report shall be in such form and contain such information as the Secretary determines appropriate.

(b) **TRAINING OF AIR CARRIER EMPLOYEES.**—The Secretary shall work with air carriers to improve the training of employees with respect to the air transport of animals and the notification of passengers of the conditions under which the air transport of animals is conducted.

(c) **SHARING OF INFORMATION.**—The Secretary and the Secretary of Agriculture shall enter into a memorandum of understanding to ensure the sharing of information that the Secretary receives under subsection (a).

(d) **PUBLICATION OF DATA.**—The Secretary shall publish data on incidents and complaints involving the loss, injury, or death of an animal during air transport in a manner comparable to other consumer complaint and incident data.

(e) **AIR TRANSPORT.**—For purposes of this section, the air transport of an animal includes the entire period during which an animal is in the custody of an air carrier, from check-in of the animal prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.

(Added Pub. L. 106-181, title VII, § 710(a), Apr. 5, 2000, 114 Stat. 159.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41722. Delay reduction actions

(a) **SCHEDULING REDUCTION MEETINGS.**—The Secretary of Transportation may request that air carriers meet with the Administrator of the Federal Aviation Administration to discuss flight reductions at severely congested airports to reduce overscheduling and flight delays during hours of peak operation if—

(1) the Administrator determines that it is necessary to convene such a meeting; and

(2) the Secretary determines that the meeting is necessary to meet a serious transportation need or achieve an important public benefit.

(b) **MEETING CONDITIONS.**—Any meeting under subsection (a)—

(1) shall be chaired by the Administrator;

(2) shall be open to all scheduled air carriers; and

(3) shall be limited to discussions involving the airports and time periods described in the Administrator's determination.

(c) **FLIGHT REDUCTION TARGETS.**—Before any such meeting is held, the Administrator shall establish flight reduction targets for the meeting and notify the attending air carriers of those targets not less than 48 hours before the meeting.

(d) **DELAY REDUCTION OFFERS.**—An air carrier attending the meeting shall make any offer to meet a flight reduction target to the Administrator rather than to another carrier.

(e) TRANSCRIPT.—The Administrator shall ensure that a transcript of the meeting is kept and made available to the public not later than 3 business days after the conclusion of the meeting.

(Added Pub. L. 108–176, title IV, § 422(a), Dec. 12, 2003, 117 Stat. 2552.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§ 41723. Notice concerning aircraft assembly

The Secretary of Transportation shall require, beginning after the last day of the 18-month period following the date of enactment of this section, an air carrier using an aircraft to provide scheduled passenger air transportation to display a notice, on an information placard available to each passenger on the aircraft, that informs the passengers of the nation in which the aircraft was finally assembled.

(Added Pub. L. 108–176, title VIII, § 810(a), Dec. 12, 2003, 117 Stat. 2590.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

§ 41731. Definitions

(a) GENERAL.—In this subchapter—

(1) “eligible place” means a place in the United States that—

(A)(i) was an eligible point under section 419 of the Federal Aviation Act of 1958 before October 1, 1988;

(ii) received scheduled air transportation at any time after January 1, 1990; and

(iii) is not listed in Department of Transportation Orders 89–9–37 and 89–12–52 as a place ineligible for compensation under this subchapter; or

(B) determined,¹ on or after October 1, 1988, and before the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, under this subchapter by the Secretary to be eligible to receive subsidized small community air service under section 41736(a).

(2) “enhanced essential air service” means scheduled air transportation to an eligible place of a higher level or quality than basic essential air service described in section 41732 of this title.

(b) LIMITATION ON AUTHORITY TO DECIDE A PLACE NOT AN ELIGIBLE PLACE.—The Secretary

of Transportation may not decide that a place described in subsection (a)(1) of this section is not an eligible place on the basis of a passenger subsidy at that place or on another basis that is not specifically stated in this subchapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1143; Pub. L. 106–181, title II, § 208, Apr. 5, 2000, 114 Stat. 95; Pub. L. 108–176, title II, § 225(b)(2), Dec. 12, 2003, 117 Stat. 2529.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41731(a)(1) ..	49 App.:1389(a)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(a); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1508; restated Nov. 5, 1990, Pub. L. 101–508, § 9113(a), 104 Stat. 1388–363.
41731(a)(2) ..	49 App.:1389(k)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(k)(2)–(5); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1517.
41731(a)(3) ..	49 App.:1389(k)(3).	
41731(a)(4) ..	49 App.:1389(k)(4).	
41731(a)(5) ..	49 App.:1389(k)(5).	
41731(b)	49 App.:1389(a)(2).	

In this subchapter (except subsection (a)(1)(A) of this section), the word “place” is substituted for “point” for clarity and consistency in the revised title.

In subsection (a)(1)(A), the words “was an eligible point . . . before October 1, 1988” are substituted for “is defined as an eligible point . . . as in effect before October 1, 1988” for clarity and to eliminate unnecessary words.

In subsection (a)(2), the words “described in section 41732 of this title” are added for clarity.

In subsection (a)(3)–(5), the word “boardings” is substituted for “enplanements” for clarity and consistency in the revised title.

REFERENCES IN TEXT

Section 419 of the Federal Aviation Act of 1958, referred to in subsec. (a)(1)(A)(i), is section 419 of Pub. L. 85–726, which was classified to section 1389 of former Title 49, Transportation, and was repealed and reenacted as this subchapter by Pub. L. 103–272, §§ 1(e), 7(b), July 5, 1994, 108 Stat. 1143, 1379.

The date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, referred to in subsec. (a)(1)(B), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

AMENDMENTS

2003—Subsec. (a)(3) to (5). Pub. L. 108–176 struck out pars. (3) to (5) which defined “hub airport”, “nonhub airport”, and “small hub airport”, respectively.

2000—Subsec. (a)(1). Pub. L. 106–181 redesignated subpars. (A), (B), and (C) as cls. (i), (ii), and (iii), respectively, of subpar (A) and added subpar. (B).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

¹ So in original. Probably should be “was determined.”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

CODE-SHARING PILOT PROGRAM

Pub. L. 108-176, title IV, § 406, Dec. 12, 2003, 117 Stat. 2545, provided that:

“(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which the Secretary may require air carriers providing service with compensation under subchapter II of chapter 417 of title 49, United States Code, and major air carriers (as defined in section 41716(a)(2) of such title) serving large hub airports (as defined in section 40102 of such title) to participate in multiple code-share arrangements consistent with normal industry practice whenever and wherever the Secretary determines that such multiple code-sharing arrangements would improve air transportation services.

“(b) LIMITATION.—The Secretary may not require air carriers to participate in the pilot program under this section for more than 10 communities receiving service under subchapter II of chapter 417 of title 49, United States Code.”

MEASUREMENT OF HIGHWAY MILES FOR PURPOSES OF DETERMINING ELIGIBILITY OF ESSENTIAL AIR SERVICE SUBSIDIES

Pub. L. 108-176, title IV, § 409, Dec. 12, 2003, 117 Stat. 2547, as amended by Pub. L. 110-190, § 4(d)(1), Feb. 28, 2008, 122 Stat. 644; Pub. L. 110-330, § 5(k), Sept. 30, 2008, 122 Stat. 3719; Pub. L. 111-69, § 5(k), Oct. 1, 2009, 123 Stat. 2055, provided that:

“(a) REQUEST FOR SECRETARIAL REVIEW.—An eligible place (as defined in section 41731 of title 49, United States Code) with respect to which the Secretary has, in the 2-year period ending on the date of enactment of this Act [Dec. 12, 2003], eliminated (or tentatively eliminated) compensation for essential air service to such place, or terminated (or tentatively terminated) the compensation eligibility of such place for essential air service, under section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 [Pub. L. 106-69] (49 U.S.C. 41731 note), section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century [Pub. L. 106-181] (49 U.S.C. 41731 note), or any prior law of similar effect based on the highway mileage of such place from the nearest hub airport (as defined in section 40102 of such title), may request the Secretary to review such action.

“(b) DETERMINATION OF MILEAGE.—In reviewing an action under subsection (a), the highway mileage between an eligible place and the nearest medium hub airport or large hub airport is the highway mileage of the most commonly used route between the place and the medium hub airport or large hub airport. In identifying such route, the Secretary shall identify the most commonly used route for a community by—

“(1) consulting with the Governor of a State or the Governor’s designee; and

“(2) considering the certification of the Governor of a State or the Governor’s designee as to the most commonly used route.

“(c) ELIGIBILITY DETERMINATION.—Not later than 60 days after receiving a request under subsection (a), the Secretary shall—

“(1) determine whether the eligible place would have been subject to an elimination of compensation eligibility for essential air service, or termination of the eligibility of such place for essential air service, under the provisions of law referred to in subsection (a) based on the determination of the highway mileage of such place from the nearest medium hub airport or large hub airport under subsection (b); and

“(2) issue a final order with respect to the eligibility of such place for essential air service compensation under subchapter II of chapter 417 of title 49, United States Code.

“(d) LIMITATION ON PERIOD OF FINAL ORDER.—A final order issued under subsection (c) shall terminate on September 30, 2010.”

[Pub. L. 110-190, § 4(d)(2), Feb. 28, 2008, 122 Stat. 644, provided that: “The amendment made by paragraph (1) [amending section 409(d) of Pub. L. 108-176, set out above] shall take effect on September 29, 2007, and shall apply with respect to any final order issued under section 409(c) of such Act [section 409(c) of Pub. L. 108-176, set out above] that was in effect on such date.”]

MARKETING PRACTICES

Pub. L. 106-181, title II, § 207, Apr. 5, 2000, 114 Stat. 94, provided that:

“(a) REVIEW OF MARKETING PRACTICES THAT ADVERSELY AFFECT SERVICE TO SMALL OR MEDIUM COMMUNITIES.—Not later than 180 days after the date of the enactment of this Act [Apr. 5, 2000], the Secretary [of Transportation] shall review the marketing practices of air carriers that may inhibit the availability of quality, affordable air transportation services to small- and medium-sized communities, including—

“(1) marketing arrangements between airlines and travel agents;

“(2) code-sharing partnerships;

“(3) computer reservation system displays;

“(4) gate arrangements at airports;

“(5) exclusive dealing arrangements; and

“(6) any other marketing practice that may have the same effect.

“(b) REGULATIONS.—If the Secretary finds, after conducting the review, that marketing practices inhibit the availability of affordable air transportation services to small- and medium-sized communities, then, after public notice and an opportunity for comment, the Secretary may issue regulations that address the problem or take other appropriate action.

“(c) STATUTORY CONSTRUCTION.—Nothing in this section expands the authority or jurisdiction of the Secretary to issue regulations under chapter 417 of title 49, United States Code, or under any other law.”

RESTRICTIONS ON ESSENTIAL AIR SERVICE SUBSIDIES

Pub. L. 106-181, title II, § 205, Apr. 5, 2000, 114 Stat. 94, provided that: “The Secretary [of Transportation] may provide assistance under subchapter II of chapter 417 of title 49, United States Code, with respect to a place that is located within 70 highway miles of a hub airport (as defined by section 41731 of such title) if the most commonly used highway route between the place and the hub airport exceeds 70 miles.”

Pub. L. 106-69, title III, § 332, Oct. 9, 1999, 113 Stat. 1022, provided that: “Hereafter, notwithstanding 49 U.S.C. 41742, no essential air service subsidies shall be provided to communities in the 48 contiguous States that are located fewer than 70 highway miles from the nearest large or medium hub airport, or that require a rate of subsidy per passenger in excess of \$200 unless such point is greater than 210 miles from the nearest large or medium hub airport.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105-277, div. A, § 101(g) [title III, § 334], Oct. 21, 1998, 112 Stat. 2681-439, 2681-471.

Pub. L. 105-66, title III, § 336, Oct. 27, 1997, 111 Stat. 1447.

§ 41732. Basic essential air service

(a) GENERAL.—Basic essential air service provided under section 41733 of this title is scheduled air transportation of passengers and cargo—

(1) to a hub airport that has convenient connecting or single-plane air service to a substantial number of destinations beyond that airport; or

(2) to a small hub or nonhub airport, when in Alaska or when the nearest hub airport is more than 400 miles from an eligible place.

(b) **MINIMUM REQUIREMENTS.**—Basic essential air service shall include at least the following:

(1)(A) for a place not in Alaska, 2 daily round trips 6 days a week, with not more than one intermediate stop on each flight; or

(B) for a place in Alaska, a level of service at least equal to that provided in 1976 or 2 round trips a week, whichever is greater, except that the Secretary of Transportation and the appropriate State authority of Alaska may agree to a different level of service after consulting with the affected community.

(2) flights at reasonable times considering the needs of passengers with connecting flights at the airport and at prices that are not excessive compared to the generally prevailing prices of other air carriers for like service between similar places.

(3) for a place not in Alaska, service provided in an aircraft with an effective capacity of at least 15 passengers if the average daily boardings at the place in any calendar year from 1976-1986 were more than 11 passengers unless—

(A) that level-of-service requirement would require paying compensation in a fiscal year under section 41733(d) or 41734(d) or (e) of this title for the place when compensation otherwise would not have been paid for that place in that year; or

(B) the affected community agrees with the Secretary in writing to the use of smaller aircraft to provide service to the place.

(4) service accommodating the estimated passenger and property traffic at an average load factor, for each class of traffic considering seasonal demands for the service, of not more than—

(A) 50 percent; or

(B) 60 percent when service is provided by aircraft with more than 14 passenger seats.

(5) service provided in aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation has not been provided to the place in aircraft with at least 2 engines and using 2 pilots for at least 60 consecutive operating days at any time since October 31, 1978.

(6) service provided by pressurized aircraft when the service is provided by aircraft that regularly fly above 8,000 feet in altitude.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1144.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41732(a)	49 App.:1389(k)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 419(k)(1); added Oct. 24, 1978, Pub. L. 95-504, § 33(a), 92 Stat. 1732; Dec. 8, 1963, Pub. L. 98-213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98-443, § 9(r), 98 Stat. 1706; restated Dec. 30, 1987, Pub. L. 100-223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.
41732(b)	49 App.:1389(k)(1) (last sentence).	

In subsection (a), before clause (1), the words “provided under section 41733 of this title” are added for clarity. In clause (2), the words “from an eligible place” are added for clarity.

In subsection (b), before clause (1), the words “Basic essential air service” are substituted for “Such transportation” for clarity and consistency in the revised title. In clause (1)(B), the word “1976” is substituted for “calendar year 1976” to eliminate unnecessary words. The words “appropriate State authority of Alaska” are substituted for “State agency of the State of Alaska” for clarity and consistency with the source provisions restated in section 41734(a) of the revised title. The words “agree to a different level of service” are substituted for “otherwise specified under an agreement” for clarity. In clause (2), the word “prices” is substituted for “rates, fares, and charges” and “fares” because of the definition of “price” in section 40102(a) of the revised title. In clause (3), before subclause (A), the word “boardings” is substituted for “enplanements” for clarity and consistency in the revised title. The words “from 1976-1986” are substituted for “beginning after December 31, 1975, and ending on or before December 31, 1986” to eliminate unnecessary words. In subclause (B), the words “affected community” are substituted for “community concerned” for consistency with the source provisions restated in clause (1)(B) of this section. In clause (5), the words “for at least 60 consecutive operating days” are substituted for “on each of 60 consecutive operating days” for clarity.

§ 41733. Level of basic essential air service

(a) **DECISIONS MADE BEFORE OCTOBER 1, 1988.**—For each eligible place for which a decision was made before October 1, 1988, under section 419 of the Federal Aviation Act of 1958, establishing the level of essential air transportation, the level of basic essential air service for that place shall be the level established by the Secretary of Transportation for that place by not later than December 29, 1988.

(b) **DECISIONS NOT MADE BEFORE OCTOBER 1, 1988.**—(1) The Secretary shall decide on the level of basic essential air service for each eligible place for which a decision was not made before October 1, 1988, establishing the level of essential air transportation, when the Secretary receives notice that service to that place will be provided by only one air carrier. The Secretary shall make the decision by the last day of the 6-month period beginning on the date the Secretary receives the notice. The Secretary may impose notice requirements necessary to carry out this subsection. Before making a decision, the Secretary shall consider the views of any interested community and the appropriate State authority of the State in which the community is located.

(2) Until the Secretary has made a decision on a level of basic essential air service for an eligible place under this subsection, the Secretary, on petition by an appropriate representative of the place, shall prohibit an air carrier from ending, suspending, or reducing air transportation to that place that appears to deprive the place of basic essential air service.

(c) **AVAILABILITY OF COMPENSATION.**—(1) If the Secretary decides that basic essential air service will not be provided to an eligible place without compensation, the Secretary shall provide notice that an air carrier may apply to provide basic essential air service to the place for compensation under this section. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the demonstrated reliability of the applicant in providing scheduled air service;

(B) the contractual and marketing arrangements the applicant has made with a larger

carrier to ensure service beyond the hub airport;

(C) the interline arrangements that the applicant has made with a larger carrier to allow passengers and cargo of the applicant at the hub airport to be transported by the larger carrier through one reservation, ticket, and baggage check-in;

(D) the preferences of the actual and potential users of air transportation at the eligible place, giving substantial weight to the views of the elected officials representing the users; and

(E) for an eligible place in Alaska, the experience of the applicant in providing, in Alaska, scheduled air service, or significant patterns of non-scheduled air service under an exemption granted under section 40109(a) and (c)–(h) of this title.

(2) Under guidelines prescribed under section 41737(a) of this title, the Secretary shall pay the rate of compensation for providing basic essential air service under this section and section 41734 of this title.

(d) **COMPENSATION PAYMENTS.**—The Secretary shall pay compensation under this section at times and in the way the Secretary decides is appropriate. The Secretary shall end payment of compensation to an air carrier for providing basic essential air service to an eligible place when the Secretary decides the compensation is no longer necessary to maintain basic essential air service to the place.

(e) **REVIEW.**—The Secretary shall review periodically the level of basic essential air service for each eligible place. Based on the review and consultations with an interested community and the appropriate State authority of the State in which the community is located, the Secretary may make appropriate adjustments in the level of service, to the extent such adjustments are to a level not less than the basic essential air service level established under subsection (a) for the airport that serves the community.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1145; Pub. L. 106–181, title II, §209(b), Apr. 5, 2000, 114 Stat. 95.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41733(a)	49 App.:1389(b)(1)(A) (less last sentence last 24 words), (C).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(b)(1), (3), (4), (9); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1508, 1509, 1511.
41733(b)(1) ..	49 App.:1389(b)(1)(A) (last sentence last 24 words), (B).	
41733(b)(2) ..	49 App.:1389(b)(9).	
41733(c)	49 App.:1389(b)(3).	
41733(d)	49 App.:1389(b)(4).	
41733(e)	49 App.:1389(b)(1)(D).	

In subsection (a), the words “the level of basic essential air service for that place shall be the level established by the Secretary of Transportation for that place” are substituted for “Such determination shall be made” because the determinations for those places

have been made. The words “by not later than December 29, 1988” are substituted for “no later than the last day of the 1-year period beginning on December 30, 1987” for clarity. The words “and only after consideration of the views of any interested community and the State agency of the State in which such community is located” and 49 App.:1389(b)(1)(C) are omitted as executed.

In subsections (b)(1) and (e), the words “appropriate State authority” are substituted for “State agency” for clarity and consistency with the source provisions restated in section 41734(a) of the revised title.

In section (b)(2), the words “that appears to deprive” are substituted for “which reasonably appears to deprive” to eliminate an unnecessary word.

In subsection (c)(1), before clause (A), the words “an air carrier may apply to provide basic essential air service to the place for compensation” are substituted for “applications may be submitted by any air carrier that is willing to provide such service to such point for compensation” for clarity and to eliminate unnecessary words.

REFERENCES IN TEXT

Section 419 of the Federal Aviation Act of 1958, referred to in subsec. (a), is section 419 of Pub. L. 85–726, which was classified to section 1389 of former Title 49, Transportation, and was repealed and reenacted as this subchapter by Pub. L. 103–272, §1(e), 7(b), July 5, 1994, 108 Stat. 1143, 1379.

AMENDMENTS

2000—Subsec. (e). Pub. L. 106–181 inserted before period at end “, to the extent such adjustments are to a level not less than the basic essential air service level established under subsection (a) for the airport that serves the community”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECT ON CERTAIN ORDERS

Pub. L. 106–181, title II, §209(c), Apr. 5, 2000, 114 Stat. 95, provided that: “All orders issued by the Secretary [of Transportation] after September 30, 1999, and before the date of the enactment of this Act [Apr. 5, 2000] establishing, modifying, or revoking essential air service levels shall be null and void beginning on the 90th day following such date of enactment. During the 90-day period, the Secretary shall reconsider such orders and shall issue new orders consistent with the amendments made by this section [amending this section and section 41742 of this title].”

§ 41734. Ending, suspending, and reducing basic essential air service

(a) **NOTICE REQUIRED.**—An air carrier may end, suspend, or reduce air transportation to an eligible place below the level of basic essential air service established for that place under section 41733 of this title only after giving the Secretary of Transportation, the appropriate State authority, and the affected communities at least 90 days’ notice before ending, suspending, or reducing that transportation.

(b) **CONTINUATION OF SERVICE FOR 30 DAYS AFTER NOTICE PERIOD.**—If at the end of the notice period under subsection (a) of this section the Secretary has not found another air carrier to provide basic essential air service to the eligible place, the Secretary shall require the carrier providing notice to continue to provide basic essential air service to the place for an ad-

ditional 30-day period or until another carrier begins to provide basic essential air service to the place, whichever occurs first.

(c) **CONTINUATION OF SERVICE FOR ADDITIONAL 30-DAY PERIODS.**—If at the end of the 30-day period under subsection (b) of this section the Secretary decides another air carrier will not provide basic essential air service to the place on a continuing basis, the Secretary shall require the carrier providing service to continue to provide service for additional 30-day periods until another carrier begins providing service on a continuing basis. At the end of each 30-day period, the Secretary shall decide if another carrier will provide service on a continuing basis.

(d) **CONTINUATION OF COMPENSATION AFTER NOTICE PERIOD.**—If an air carrier receiving compensation under section 41733 of this title for providing basic essential air service to an eligible place is required to continue to provide service to the place under this section after the 90-day notice period under subsection (a) of this section, the Secretary shall continue to pay that compensation after the last day of that period. The Secretary shall pay the compensation until the Secretary finds another carrier to provide the service to the place or the 90th day after the end of that notice period, whichever is earlier. If, after the 90th day after the end of the 90-day notice period, the Secretary has not found another carrier to provide the service, the carrier required to continue to provide that service shall receive compensation sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(e) **COMPENSATION TO AIR CARRIERS ORIGINALLY PROVIDING SERVICE WITHOUT COMPENSATION.**—If the Secretary requires an air carrier providing basic essential air service to an eligible place without compensation under section 41733 of this title to continue providing that service after the 90-day notice period required by subsection (a) of this section, the Secretary shall provide the carrier with compensation after the end of the 90-day notice period that is sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(f) **FINDING REPLACEMENT CARRIERS.**—When the Secretary requires an air carrier to continue

to provide basic essential air service to an eligible place, the Secretary shall continue to make every effort to find another carrier to provide at least that basic essential air service to the place on a continuing basis.

(g) **TRANSFER OF AUTHORITY.**—If an air carrier, providing basic essential air service under section 41733 of this title between an eligible place and an airport at which the Administrator of the Federal Aviation Administration limits the number of instrument flight rule takeoffs and landings of aircraft, provides notice under subsection (a) of this section of an intention to end, suspend, or reduce that service and another carrier is found to provide the service, the Secretary shall require the carrier providing notice to transfer any operational authority the carrier has to land or take off at that airport related to the service to the eligible place to the carrier that will provide the service, if—

(1) the carrier that will provide the service needs the authority; and

(2) the authority to be transferred is being used to provide air service to another eligible place.

(h) **NONCONSIDERATION OF SLOT AVAILABILITY.**—In determining what is basic essential air service and in selecting an air carrier to provide such service, the Secretary shall not consider as a factor whether slots at a high density airport are available for providing such service.

(i) **EXEMPTION FROM HOLD-IN REQUIREMENTS.**—If, after the date of enactment of this subsection, an air carrier commences air transportation to an eligible place that is not receiving scheduled passenger air service as a result of the failure of the eligible place to meet requirements contained in an appropriations Act, the air carrier shall not be subject to the requirements of subsections (b) and (c) with respect to such air transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1146; Pub. L. 103–305, title II, §206(c), Aug. 23, 1994, 108 Stat. 1587; Pub. L. 103–429, §6(81), Oct. 31, 1994, 108 Stat. 4388; Pub. L. 108–176, title IV, §401, Dec. 12, 2003, 117 Stat. 2542.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41734(a)	49 App.:1389(b)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(b)(2), (5)–(8); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1509, 1510.
41734(b)	49 App.:1389(b)(5) (1st sentence).	
41734(c)	49 App.:1389(b)(5) (last sentence).	
41734(d)	49 App.:1389(b)(6)(A).	
41734(e)	49 App.:1389(b)(6)(B).	
41734(f)	49 App.:1389(b)(8).	
41734(g)	49 App.:1389(b)(7).	

In subsection (b), the words “If at the end of the notice period under subsection (a) of this section” are substituted for “If an air carrier has provided notice to the Secretary under paragraph (2) of such air carrier’s intention to suspend, terminate, or reduce service to any eligible point below the level of basic essential air

service to such point, and if at the conclusion of the applicable period of notice” for clarity and to eliminate unnecessary words.

In subsection (c), the words “either with or without compensation” are omitted as unnecessary. The words “shall require the carrier providing service to continue to provide service for additional 30-day periods” are substituted for “shall extend such requirement for such additional 30-day periods . . . as may be necessary to continue basic essential air service to such eligible point”, and the words “the Secretary shall decide if another carrier will provide service on a continuing basis” are substituted for “making the same determination”, for clarity.

In subsections (d)(1) and (e)(1), the word “fair” is omitted as being included in “reasonable”.

In subsection (d), before clause (1), the words “basic essential air service” are substituted for “air transportation” and “such transportation” for consistency with the source provisions restated in this section. The words “to continue to provide service to the place under this section after the 90-day notice period under subsection (a) of this section” are substituted for “to continue service to such point beyond the date on which such carrier would, but for paragraph (5), be able to suspend, terminate, or reduce such service below the level of basic essential air service to such point” to eliminate unnecessary words.

In subsection (e), before clause (1), the words “basic essential air service” are substituted for “air transportation” for consistency with the source provisions restated in this section. The words “after the end of the 90-day notice period that is” are substituted for “then” for clarity.

In subsection (f), the words “basic essential air service” are substituted for “air transportation which such air carrier has proposed to terminate, reduce, or suspend” for consistency with the source provisions restated in this section.

In subsection (g)(2), the words “the authority to be transferred is being used only to provide air service to the eligible place” are substituted for “unless . . . such authority is being used to provide air service with respect to more than 1 eligible point” for clarity and because of the restatement.

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (i), is the date of enactment of Pub. L. 108-176, which was approved Dec. 12, 2003.

AMENDMENTS

2003—Subsec. (i). Pub. L. 108-176 added subsec. (i).

1994—Subsec. (g)(2). Pub. L. 103-429 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “the authority to be transferred is being used only to provide air service to the eligible place.”

Subsec. (h). Pub. L. 103-305 added subsec. (h).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

DEFINITIONS

For definitions of the terms “slot” and “high density airport” used in subsec. (h) of this section, see section 41714(h) of this title.

§ 41735. Enhanced essential air service

(a) PROPOSALS.—(1) A State or local government may submit a proposal to the Secretary of

Transportation for enhanced essential air service to an eligible place for which basic essential air service is being provided under section 41733 of this title. The proposal shall—

(A) specify the level and type of enhanced essential air service the State or local government considers appropriate; and

(B) include an agreement related to compensation required for the proposed service.

(2) The agreement submitted under paragraph (1)(B) of this subsection shall provide that—

(A) the State or local government or a person pay 50 percent of the compensation required for the proposed service and the United States Government pay the remaining 50 percent; or

(B)(i) the Government pay 100 percent of the compensation; and

(ii) if the proposed service is not successful for at least a 2-year period under the criteria prescribed by the Secretary under paragraph (3) of this subsection, the eligible place is not eligible for air service or air transportation for which compensation is paid by the Secretary under this subchapter.

(3) The Secretary shall prescribe by regulation objective criteria for deciding whether enhanced essential air service to an eligible place under this section is successful in terms of—

(A) increasing passenger usage of the airport facilities at the place; and

(B) reducing the amount of compensation provided by the Secretary under this subchapter for that service.

(b) DECISIONS.—Not later than 90 days after receiving a proposal under subsection (a) of this section, the Secretary shall—

(1) approve the proposal if the Secretary decides the proposal is reasonable; or

(2) if the Secretary decides the proposal is not reasonable, disapprove the proposal and notify the State or local government of the disapproval and the reasons for the disapproval.

(c) COMPENSATION PAYMENTS.—(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. Compensation for enhanced essential air service under this section may be paid only for the costs incurred in providing air service to an eligible place that are in addition to the costs incurred in providing basic essential air service to the place under section 41733 of this title. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of enhanced essential air service;

(B) the State or local government or person agreeing to pay compensation under this section continues to pay the compensation; and

(C) the Secretary decides the compensation is necessary to maintain the service to the place.

(2) The Secretary may require the State or local government or person agreeing to pay compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(d) REVIEW.—(1) The Secretary shall review periodically the enhanced essential air service provided to each eligible place under this section.

(2) For service for which the Government pays 50 percent of the compensation, based on the review and consultation with the affected community and the State or local government or person paying the remaining 50 percent of the compensation, the Secretary shall make appropriate adjustments in the type and level of service to the place.

(3) For service for which the Government pays 100 percent of the compensation, based on the review and consultation with the State or local government submitting the proposal, the Secretary shall decide whether the service has succeeded for at least a 2-year period under the criteria prescribed under subsection (a)(3) of this section. If unsuccessful, the place is not eligible for air service or air transportation for which compensation is paid by the Secretary under this subchapter.

(e) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—An air carrier may end, suspend, or reduce air transportation to an eligible place below the level of enhanced essential air service established for that place by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation for that service at least 30 days' notice before ending, suspending, or reducing the service. This subsection does not relieve the carrier of an obligation under section 41734 of this title.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1148.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41735(a)	49 App.:1389(c)(1), (3)(C).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §419(c); added Oct. 24, 1978, Pub. L. 95-504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98-213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98-443, §9(r), 98 Stat. 1708; re-stated Dec. 30, 1987, Pub. L. 100-223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1512.
41735(b)	49 App.:1389(c)(2).	
41735(c)	49 App.:1389(c)(5)-(7).	
41735(d)	49 App.:1389(c)(3)(A), (B).	
41735(e)	49 App.:1389(c)(4).	

In subsections (a)(2)(B)(ii) and (d)(3), the words “air service or air transportation for which compensation is paid” are substituted for “air service for which compensation is payable” for consistency with the source provisions restated in sections 41733 and 41736 of the revised title.

In subsection (a)(3), the word “prescribe” is substituted for “establish” for consistency in the revised title.

In subsection (b), before clause (1), the words “issue a decision” are omitted as unnecessary because of the restatement.

In subsection (c)(1)(B), the words “State or local government or person agreeing to pay compensation under this section” are substituted for “government or person agreeing to pay any non-Federal share” for clarity.

In subsection (c)(2), the words “State or local government or person agreeing to pay compensation under this section” are substituted for “non-Federal payments for enhanced essential air service under this subsection” for clarity.

In subsection (d)(2), the words “For service for which the Government pays 50 percent of the compensation” are substituted for “If the enhanced essential air service approved under this subsection is to be at a 50 percent Federal share” because of the restatement. The words “the remaining 50 percent” are substituted for “the non-Federal” for clarity and consistency in this section.

In subsection (d)(3), the words “For service for which the Government pays 100 percent of the compensation” are substituted for “If the enhanced essential air service approved under this subsection is to be at a 100 percent Federal share” because of the restatement.

§ 41736. Air transportation to noneligible places

(a) PROPOSALS AND DECISIONS.—(1) A State or local government may propose to the Secretary of Transportation that the Secretary provide compensation to an air carrier to provide air transportation to a place that is not an eligible place under this subchapter. Not later than 90 days after receiving a proposal under this section, the Secretary shall—

(A) decide whether to designate the place as eligible to receive compensation under this section; and

(B)(i) approve the proposal if the State or local government or a person is willing and able to pay 50 percent of the compensation for providing the transportation, and notify the State or local government of the approval; or

(ii) disapprove the proposal if the Secretary decides the proposal is not reasonable under paragraph (2) of this subsection, and notify the State or local government of the disapproval and the reasons for the disapproval.

(2) In deciding whether a proposal is reasonable, the Secretary shall consider, among other factors—

(A) the traffic-generating potential of the place;

(B) the cost to the United States Government of providing the proposed transportation; and

(C) the distance of the place from the closest hub airport.

(b) APPROVAL FOR CERTAIN AIR TRANSPORTATION.—Notwithstanding subsection (a)(1)(B) of this section, the Secretary shall approve a proposal under this section to compensate an air carrier for providing air transportation to a place in the 48 contiguous States or the District of Columbia and designate the place as eligible for compensation under this section if—

(1) at any time before October 23, 1978, the place was served by a carrier holding a certificate under section 401 of the Federal Aviation Act of 1958;

(2) the place is more than 50 miles from the nearest small hub airport or an eligible place;

(3) the place is more than 150 miles from the nearest hub airport; and

(4) the State or local government submitting the proposal or a person is willing and able to pay 25 percent of the cost of providing the compensated transportation.

Paragraph (4) does not apply to any community approved for service under this section during the period beginning October 1, 1991, and ending December 31, 1997.

(c) LEVEL OF AIR TRANSPORTATION.—(1) If the Secretary designates a place under subsection

(a)(1) of this section as eligible for compensation under this section, the Secretary shall decide, not later than 6 months after the date of the designation, on the level of air transportation to be provided under this section. Before making a decision, the Secretary shall consider the views of any interested community, the appropriate State authority of the State in which the place is located, and the State or local government or person agreeing to pay compensation for the transportation under subsection (b)(4) of this section.

(2) After making the decision under paragraph (1) of this subsection, the Secretary shall provide notice that any air carrier that is willing to provide the level of air transportation established under paragraph (1) for a place may submit an application to provide the transportation. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the factors listed in section 41733(c)(1) of this title; and

(B) the views of the State or local government or person agreeing to pay compensation for the transportation.

(d) COMPENSATION PAYMENTS.—(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of air transportation established by the Secretary under subsection (c)(1) of this section;

(B) the State or local government or person agreeing to pay compensation for transportation under this section continues to pay that compensation; and

(C) the Secretary decides the compensation is necessary to maintain the transportation to the place.

(2) The Secretary may require the State or local government or person agreeing to pay compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(e) REVIEW.—The Secretary shall review periodically the level of air transportation provided under this section. Based on the review and consultation with any interested community, the appropriate State authority of the State in which the community is located, and the State or local government or person paying compensation under this section, the Secretary may make appropriate adjustments in the level of transportation.

(f) WITHDRAWAL OF ELIGIBILITY DESIGNATIONS.—After providing notice and an opportunity for interested persons to comment, the Secretary may withdraw the designation of a place under subsection (a)(1) of this section as eligible to receive compensation under this section if the place has received air transportation under this section for at least 2 years and the Secretary decides the withdrawal would be in the public interest. The Secretary by regulation shall prescribe standards for deciding whether the withdrawal of a designation under this subsection is in the public interest. The standards shall include the factors listed in subsection (a)(2) of this section.

(g) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—An air carrier providing air transportation for compensation under this section may end, suspend, or reduce that transportation below the level of transportation established by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation under this section at least 30 days' notice before ending, suspending, or reducing the transportation.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1149; Pub. L. 106-181, title II, §202, Apr. 5, 2000, 114 Stat. 91.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41736(a)	49 App.:1389(d)(1), (2)(A), (C).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §419(d); added Oct. 24, 1978, Pub. L. 95-504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98-213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98-443, §9(r), 98 Stat. 1708; re-stated Dec. 30, 1987, Pub. L. 100-223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1513.
41736(b)	49 App.:1389(d)(2)(B).	
41736(c)(1) ..	49 App.:1389(d)(3)(A).	
41736(c)(2) ..	49 App.:1389(d)(4).	
41736(d)	49 App.:1389(d)(5), (7), (8).	
41736(e)	49 App.:1389(d)(3)(B).	
41736(f)	49 App.:1389(d)(2)(D).	
41736(g)	49 App.:1389(d)(6).	

In subsection (a)(1), before clause (A), the words “that the Secretary provide compensation to an air carrier to provide air transportation” are substituted for “for compensated air transportation in accordance with this subsection” for clarity. In clause (B)(i), the word “transportation” is substituted for “proposed compensated air transportation” to eliminate unnecessary words.

In subsections (c)–(g), the word “transportation” is substituted for “service” for consistency with the source provisions restated in subsections (a) and (b) of this section.

In subsections (c)(1) and (e), the words “appropriate State authority” are substituted for “State agency” for clarity and consistency with the source provisions restated in section 41734(a) of the revised title.

In subsection (d), the text of 49 App.:1389(d)(5) is omitted as unnecessary because of the restatement.

In subsection (f), the word “prescribe” is substituted for “establish” for consistency in the revised title and with other titles of the United States Code.

REFERENCES IN TEXT

Section 401 of the Federal Aviation Act of 1958, referred to in subsec. (b)(1), is section 401 of Pub. L. 85-726, which was classified to section 1371 of former Title 49, Transportation, and was repealed by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For disposition of section 1371 of former Title 49, see Table at the beginning of Title 49.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106-181 inserted concluding provisions.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

§ 41737. Compensation guidelines, limitations, and claims

(a) COMPENSATION GUIDELINES.—(1) The Secretary of Transportation shall prescribe guidelines governing the rate of compensation payable under this subchapter. The guidelines shall be used to determine the reasonable amount of compensation required to ensure the continuation of air service or air transportation under this subchapter. The guidelines shall—

(A) provide for a reduction in compensation when an air carrier does not provide service or transportation agreed to be provided;

(B) consider amounts needed by an air carrier to promote public use of the service or transportation for which compensation is being paid; and

(C) include expense elements based on representative costs of air carriers providing scheduled air transportation of passengers, property, and mail on aircraft of the type the Secretary decides is appropriate for providing the service or transportation for which compensation is being provided.

(2) Promotional amounts described in paragraph (1)(B) of this subsection shall be a special, segregated element of the compensation provided to a carrier under this subchapter.

(b) REQUIRED FINDING.—The Secretary may pay compensation to an air carrier for providing air service or air transportation under this subchapter only if the Secretary finds the carrier is able to provide the service or transportation in a reliable way.

(c) CLAIMS.—Not later than 15 days after receiving a written claim from an air carrier for compensation under this subchapter, the Secretary shall—

(1) pay or deny the United States Government's share of a claim; and

(2) if denying the claim, notify the carrier of the denial and the reasons for the denial.

(d) AUTHORITY TO MAKE AGREEMENTS AND INCUR OBLIGATIONS.—(1) The Secretary may make agreements and incur obligations from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to pay compensation under this subchapter. An agreement by the Secretary under this subsection is a contractual obligation of the Government to pay the Government's share of the compensation.

(2) Not more than \$38,600,000 is available to the Secretary out of the Fund for each of the fiscal years ending September 30, 1993–1998, to incur obligations under this section. Amounts made available under this section remain available until expended.

(e) ADJUSTMENTS TO ACCOUNT FOR SIGNIFICANTLY INCREASED COSTS.—

(1) IN GENERAL.—If the Secretary determines that air carriers are experiencing significantly increased costs in providing air service or air transportation for which compensation is being paid under this subchapter, the Secretary may increase the rates of compensation payable under this subchapter without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

(2) READJUSTMENT IF COSTS SUBSEQUENTLY DECLINE.—If an adjustment is made under paragraph (1), and total unit costs subsequently decrease to at least the total unit cost reflected in the compensation rate, then the Secretary may reverse the adjustment previously made under paragraph (1) without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

(3) SIGNIFICANTLY INCREASED COSTS DEFINED.—In this subsection, the term “significantly increased costs” means a total unit cost increase (but not increases in individual unit costs) of 10 percent or more in relation to the total unit cost reflected in the compensation rate, based on the carrier's internal audit of its financial statements if such cost increase is incurred for a period of at least 2 consecutive months.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1151; Pub. L. 108–176, title IV, § 402(a), Dec. 12, 2003, 117 Stat. 2543.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41737(a)	49 App.:1389(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(e)(2)–(g); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1515.
41737(b)	49 App.:1389(e)(2).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(l); added Nov. 5, 1990, Pub. L. 101–508, § 9113(b)(1), 104 Stat. 1388–363.
41737(c)	49 App.:1389(g).	
41737(d)	49 App.:1389(l).	

In subsection (a)(1), before clause (A), the word “prescribe” is substituted for “establish” to eliminate an executed word. The words “air service or air transportation under this subchapter” are substituted for “air service under this section” for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title. In clause (C), the words “the service or transportation for which compensation is being provided” are substituted for “such service” for clarity.

In subsection (a)(2), the words “compensation provided to a carrier under this subchapter” are substituted for “required compensation” for clarity.

In subsection (b), the words “air service or air transportation” are substituted for “air service” for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

In subsection (d)(2), the reference to fiscal year 1992 is omitted as obsolete.

AMENDMENTS

2003—Subsec. (e). Pub. L. 108–176 added subsec. (e).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title IV, § 402(b), Dec. 12, 2003, 117 Stat. 2543, provided that: “The amendment made by subsection (a) [amending this section] shall take effect 30 days after the date of enactment of this Act [Dec. 12, 2003].”

§ 41738. Fitness of air carriers

Notwithstanding section 40109(a) and (c)–(h) of this title, an air carrier may provide air service

to an eligible place or air transportation to a place designated under section 41736 of this title only when the Secretary of Transportation decides that—

(1) the carrier is fit, willing, and able to perform the service or transportation; and

(2) aircraft used to provide the service or transportation, and operations related to the service or transportation, conform to the safety standards prescribed by the Administrator of the Federal Aviation Administration.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41738	49 App.:1389(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(e)(1); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1515.

In this section, before clause (1), the words “air transportation to a place” are substituted for “service to a point” for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title. In clauses (1) and (2), the words “service or transportation” are substituted for “such service” for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

§ 41739. Air carrier obligations

If at least 2 air carriers make an agreement to operate under or use a single carrier designator code to provide air transportation, the carrier whose code is being used shares responsibility with the other carriers for the quality of transportation provided the public under the code by the other carriers.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41739	49 App.:1389(i).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(i); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words “quality of transportation” are substituted for “quality of service” for clarity and consistency in this section.

§ 41740. Joint proposals

The Secretary of Transportation shall encourage the submission of joint proposals, including joint fares, by 2 or more air carriers for providing air service or air transportation under this subchapter through arrangements that maximize the service or transportation to and from major destinations beyond the hub.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152; Pub. L. 108–176, title IV, §403, Dec. 12, 2003, 117 Stat. 2543.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41740	49 App.:1389(j).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(j); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words “air service or air transportation” are substituted for “air service”, and the words “the service or transportation” are substituted for “service”, for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

AMENDMENTS

2003—Pub. L. 108–176 inserted “, including joint fares,” after “joint proposals”.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

§ 41741. Insurance

The Secretary of Transportation may pay an air carrier compensation under this subchapter only when the carrier files with the Secretary an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay for bodily injury to, or death of, an individual, or for loss of or damage to property of others, resulting from the operation of aircraft, but not more than the amount of the policy or plan limits.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41741	49 App.:1389(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(h); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words “The Secretary of Transportation may pay . . . only when” are substituted for “An air carrier shall not receive . . . unless” for clarity. The words “approved by the Secretary” are substituted for “complies with regulations or orders issued by the Secretary governing the filing and approval” to eliminate unnecessary words. The words “The policy or plan must be sufficient to pay . . . but not more than the amount of the policy or plan limits” are substituted for “in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts” because of the restatement. The words “for which such air carrier may become liable” are omitted as unnecessary. The word “individual” is substituted for “person” because it is more precise. The word “operation” is substituted for “operation or maintenance” because it is inclusive.

§ 41742. Essential air service authorization

(a) IN GENERAL.—

(1) AUTHORIZATION.—Out of the amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration, the sum of \$50,000,000 is authorized and shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter for each fiscal year.

(2) ADDITIONAL FUNDS.—In addition to amounts authorized under paragraph (1), there is authorized to be appropriated \$77,000,000 for each fiscal year to carry out the essential air service program under this subchapter of which not more than \$12,000,000 per fiscal year may be used for the marketing incentive program for communities and for State marketing assistance.

(3) AUTHORIZATION FOR ADDITIONAL EMPLOYEES.—In addition to amounts authorized under paragraphs (1) and (2), there are authorized to be appropriated such sums as may be necessary for the Secretary of Transportation to hire and employ 4 additional employees for the office responsible for carrying out the essential air service program.

(b) FUNDING FOR SMALL COMMUNITY AIR SERVICE.—Notwithstanding any other provision of law, moneys credited to the account established under section 45303(a) of this title, including the funds derived from fees imposed under the authority contained in section 45301(a) of this title, shall be used to carry out the essential air service program under this subchapter. Notwithstanding section 47114(g)¹ of this title, any amounts from those fees that are not obligated or expended at the end of the fiscal year for the purpose of funding the essential air service program under this subchapter shall be made available to the Administration for use in improving rural air safety under subchapter I of chapter 471 of this title and shall be used exclusively for projects at rural airports under this subchapter.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1152; Pub. L. 104-264, title II, §278(c), Oct. 9, 1996, 110 Stat. 3249; Pub. L. 106-181, title II, §209(a), Apr. 5, 2000, 114 Stat. 95; Pub. L. 108-176, title IV, §404, Dec. 12, 2003, 117 Stat. 2543.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41742	49 App.:1389(m).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §419(m); added Oct. 24, 1978, Pub. L. 95-504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98-213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98-443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100-223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1517; Nov. 5, 1990, Pub. L. 101-508, §9113(b)(1), 104 Stat. 1388-363.

REFERENCES IN TEXT

Section 47114 of this title, referred to in subsec. (b), does not contain a subsec. (g).

¹ See References in Text note below.

AMENDMENTS

2003—Subsec. (a)(2). Pub. L. 108-176, §404(1), substituted “\$77,000,000” for “\$15,000,000” and inserted “of which not more than \$12,000,000 per fiscal year may be used for the marketing incentive program for communities and for State marketing assistance” before period at end.

Subsec. (a)(3). Pub. L. 108-176, §404(2), added par. (3).

Subsec. (c). Pub. L. 108-176, §404(3), struck out heading and text of subsec. (c). Text read as follows: “Notwithstanding subsections (a) and (b), in fiscal year 1997, amounts in excess of \$75,000,000 that are collected in fees pursuant to section 45301(a)(1) of this title shall be available for the essential air service program under this subchapter, in addition to amounts specifically provided for in appropriations Acts.”

2000—Subsec. (a). Pub. L. 106-181 designated existing provisions as par. (1), inserted heading, realigned margins, and added par. (2).

1996—Pub. L. 104-264 amended section generally, substituting provisions relating to essential air service authorization for provisions stating that this subchapter was not effective after Sept. 30, 1998.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-264 effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104-264, set out as a note under section 106 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

FINDINGS

Section 278(b) of Pub. L. 104-264 provided that: “Congress finds that—

“(1) air service in rural areas is essential to a national and international transportation network;

“(2) the rural air service infrastructure supports the safe operation of all air travel;

“(3) rural air service creates economic benefits for all air carriers by making the national aviation system available to passengers from rural areas;

“(4) rural air service has suffered since deregulation;

“(5) the essential air service program under the Department of Transportation—

“(A) provides essential airline access to rural and isolated rural communities throughout the Nation;

“(B) is necessary for the economic growth and development of rural communities;

“(C) is a critical component of the national and international transportation system of the United States; and

“(D) has endured serious funding cuts in recent years; and

“(6) a reliable source of funding must be established to maintain air service in rural areas and the essential air service program.”

§41743. Airports not receiving sufficient service

(a) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM.—The Secretary of Transpor-

tation shall establish a program that meets the requirements of this section for improving air carrier service to airports not receiving sufficient air carrier service.

(b) APPLICATION REQUIRED.—In order to participate in the program established under subsection (a), a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require, including—

(1) an assessment of the need of the community or consortium for access, or improved access, to the national air transportation system; and

(2) an analysis of the application of the criteria in subsection (c) to that community or consortium.

(c) CRITERIA FOR PARTICIPATION.—In selecting communities, or consortia of communities, for participation in the program established under subsection (a), the Secretary shall apply the following criteria:

(1) SIZE.—For calendar year 1997, the airport serving the community or consortium was not larger than a small hub airport, and—

(A) had insufficient air carrier service; or
(B) had unreasonably high air fares.

(2) CHARACTERISTICS.—The airport presents characteristics, such as geographic diversity or unique circumstances, that will demonstrate the need for, and feasibility of, the program established under subsection (a).

(3) STATE LIMIT.—Not more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year.

(4) OVERALL LIMIT.—No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which funds are appropriated for the program. No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.

(5) PRIORITIES.—The Secretary shall give priority to communities or consortia of communities where—

(A) air fares are higher than the average air fares for all communities;

(B) the community or consortium will provide a portion of the cost of the activity to be assisted under the program from local sources other than airport revenues;

(C) the community or consortium has established, or will establish, a public-private partnership to facilitate air carrier service to the public;

(D) the assistance will provide material benefits to a broad segment of the travelling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited; and

(E) the assistance will be used in a timely fashion.

(d) TYPES OF ASSISTANCE.—The Secretary may use amounts made available under this section—

(1) to provide assistance to an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;

(2) to provide assistance to an underserved airport to obtain service to and from the underserved airport; and

(3) to provide assistance to an underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

(e) AUTHORITY TO MAKE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may make agreements to provide assistance under this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$20,000,000 for fiscal year 2001, \$27,500,000 for each of fiscal years 2002 and 2003, and \$35,000,000 for each of fiscal years 2004 through 2010 to carry out this section. Such sums shall remain available until expended.

(f) ADDITIONAL ACTION.—Under the program established under subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports to facilitate joint-fare arrangements consistent with normal industry practice.

(g) DESIGNATION OF RESPONSIBLE OFFICIAL.—The Secretary shall designate an employee of the Department of Transportation—

(1) to function as a facilitator between small communities and air carriers;

(2) to carry out this section;

(3) to ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

(4) to work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities and the creation of aviation development zones; and

(5) to provide policy recommendations to the Secretary and Congress that will ensure that small communities have access to quality, affordable air transportation services.

(h) AIR SERVICE DEVELOPMENT ZONE.—The Secretary shall designate an airport in the program as an Air Service Development Zone and work with the community or consortium on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies.

(Added Pub. L. 106-181, title II, §203(a), Apr. 5, 2000, 114 Stat. 92; amended Pub. L. 108-11, title II, §2708, Apr. 16, 2003, 117 Stat. 601; Pub. L.

108-176, title II, § 225(b)(3), title IV, § 412, Dec. 12, 2003, 117 Stat. 2529, 2551; Pub. L. 110-330, § 5(b), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111-69, § 5(b), Oct. 1, 2009, 123 Stat. 2055.)

AMENDMENTS

2009—Subsec. (e)(2). Pub. L. 111-69 substituted “2010” for “2009”.

2008—Subsec. (e)(2). Pub. L. 110-330 substituted “2009” for “2008”.

2003—Subsec. (a). Pub. L. 108-176, § 412(1), (2), struck out “PILOT” before “PROGRAM” in heading and “pilot” before “program” in text.

Subsec. (c)(1). Pub. L. 108-176, § 225(b)(3)(A), struck out “(as that term is defined in section 41731(a)(5))” after “small hub airport” in introductory provisions.

Subsec. (c)(3). Pub. L. 108-176, § 412(3)(A), added par. (3) and struck out heading and text of former par. (3). Text read as follows: “No more than four communities or consortia of communities, or a combination thereof, may be located in the same State.”

Subsec. (c)(4). Pub. L. 108-176, § 412(3)(B), inserted at end “No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.”

Pub. L. 108-11 inserted before period at end “in each year for which funds are appropriated for the program”.

Subsec. (c)(5)(E). Pub. L. 108-176, § 412(3)(C), added subpar. (E).

Subsec. (e)(2). Pub. L. 108-176, § 412(4), substituted “fiscal year 2001,” for “fiscal year 2001 and” and inserted “, and \$35,000,000 for each of fiscal years 2004 through 2008” after “2003”.

Subsec. (f). Pub. L. 108-176, §§ 225(b)(3)(B), 412(5), struck out “pilot” after “Under the” and “(as defined in section 41731(a)(3))” after “large hub airports”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110-330, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41744. Preservation of basic essential air service at single carrier dominated hub airports

(a) IN GENERAL.—If the Secretary of Transportation determines that extraordinary circumstances jeopardize the reliable performance of essential air service under this subchapter from a subsidized essential air service community to and from an essential airport facility, the Secretary may require an air carrier that has more than 60 percent of the total annual enplanements at the essential airport facility to take action to enable another air carrier to provide reliable essential air service to that community. Actions required by the Secretary under this subsection may include interline agreements, ground services, subleasing of gates, and the provision of any other service or facility nec-

essary for the performance of satisfactory essential air service to that community.

(b) ESSENTIAL AIRPORT FACILITY DEFINED.—In this section, the term “essential airport facility” means a large hub airport in the contiguous 48 States at which one air carrier has more than 60 percent of the total annual enplanements at that airport.

(Added Pub. L. 106-181, title II, § 204(a), Apr. 5, 2000, 114 Stat. 93; amended Pub. L. 108-176, title II, § 225(b)(4), Dec. 12, 2003, 117 Stat. 2529.)

AMENDMENTS

2003—Subsec. (b). Pub. L. 108-176 struck out “(as defined in section 41731)” after “large hub airport”.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41745. Community and regional choice programs

(a) ALTERNATE ESSENTIAL AIR SERVICE PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an alternate essential air service pilot program in accordance with the requirements of this section.

(2) ASSISTANCE TO ELIGIBLE PLACES.—In carrying out the program, the Secretary, instead of paying compensation to an air carrier to provide essential air service to an eligible place, may provide assistance directly to a unit of local government having jurisdiction over the eligible place or a State within the boundaries of which the eligible place is located.

(3) USE OF ASSISTANCE.—A unit of local government or State receiving assistance for an eligible place under the program may use the assistance for any of the following purposes:

(A) To provide assistance to air carriers that will use smaller equipment to provide the service and to consider increasing the frequency of service using such smaller equipment if the Secretary determines that passenger safety would not be compromised by the use of such smaller equipment and if the State or unit of local government waives the minimum service requirements under section 41732(b).

(B) To provide assistance to an air carrier to provide on-demand air taxi service to and from the eligible place.

(C) To provide assistance to a person to provide scheduled or on-demand surface transportation to and from the eligible place and an airport in another place.

(D) In combination with other units of local government in the same region, to provide transportation services to and from all the eligible places in that region at an airport or other transportation center that can serve all the eligible places in that region.

(E) To purchase aircraft to provide transportation to and from the eligible place or to purchase a fractional share in an aircraft to provide such transportation after the effective date of a rule the Secretary issues relating to fractional ownership.

(F) To pay for other transportation or related services that the Secretary may permit.

(b) **COMMUNITY FLEXIBILITY PILOT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary shall establish a pilot program for not more than 10 eligible places or consortia of units of local government.

(2) **ELECTION.**—Under the program, the sponsor of an airport serving an eligible place may elect to forego any essential air service for which compensation is being provided under this subchapter for a 10-year period in exchange for a grant from the Secretary equal in value to twice the compensation paid to provide such service in the most recent 12-month period.

(3) **GRANT.**—Notwithstanding any other provision of law, the Secretary shall make a grant to each airport sponsor participating in the program for use on any project that—

(A) is eligible for assistance under chapter 471 and complies with the requirements of that chapter;

(B) is located on the airport property; or

(C) will improve airport facilities in a way that would make such facilities more usable for general aviation.

(c) **FRACTIONALLY OWNED AIRCRAFT.**—After the effective date of the rule referred to in subsection (a)(3)(E), only those operating rules that relate to an aircraft that is fractionally owned apply when an aircraft described in subsection (a)(3)(E) is used to provide transportation described in subsection (a)(3)(E).

(d) **APPLICATIONS.**—

(1) **IN GENERAL.**—An entity seeking to participate in a program under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

(2) **REQUIRED INFORMATION.**—At a minimum, the application shall include—

(A) a statement of the amount of compensation or assistance required; and

(B) a description of how the compensation or assistance will be used.

(e) **PARTICIPATION REQUIREMENTS.**—An eligible place for which compensation or assistance is provided under this section in a fiscal year shall not be eligible in that fiscal year for the essential air service that it would otherwise be entitled to under this subchapter.

(f) **SUBSEQUENT PARTICIPATION.**—A unit of local government participating in the program under this subsection (a) in a fiscal year shall not be prohibited from participating in the basic essential air service program under this subchapter in a subsequent fiscal year if such unit is otherwise eligible to participate in such program.

(g) **FUNDING.**—Amounts appropriated or otherwise made available to carry out the essential air service program under this subchapter shall be available to carry out this section.

(Added Pub. L. 108–176, title IV, § 405, Dec. 12, 2003, 117 Stat. 2544.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§ 41746. Tracking service

The Secretary of Transportation shall require a carrier that provides essential air service to an eligible place and that receives compensation for such service under this subchapter to report not less than semiannually—

(1) the percentage of flights to and from the place that arrive on time as defined by the Secretary; and

(2) such other information as the Secretary considers necessary to evaluate service provided to passengers traveling to and from such place.

(Added Pub. L. 108–176, title IV, § 407, Dec. 12, 2003, 117 Stat. 2545.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§ 41747. EAS local participation program

(a) **IN GENERAL.**—The Secretary of Transportation shall establish a pilot program under which not more than 10 designated essential air service communities located in proximity to hub airports are required to assume 10 percent of their essential air service subsidy costs for a 4-year period.

(b) **DESIGNATION OF COMMUNITIES.**—

(1) **IN GENERAL.**—The Secretary may not designate any community under this section unless it is located within 100 miles by road of a hub airport and is not located in a noncontiguous State. In making the designation, the Secretary may take into consideration the total traveltime between a community and the nearest hub airport, taking into account terrain, traffic, weather, road conditions, and other relevant factors.

(2) **ONE COMMUNITY PER STATE.**—The Secretary may not designate—

(A) more than 1 community per State under this section; or

(B) a community in a State in which another community that is eligible to participate in the essential air service program has elected not to participate in the essential air service program as part of a pilot program under section 41745.

(c) **APPEAL OF DESIGNATION.**—A community may appeal its designation under this section. The Secretary may withdraw the designation of a community under this section based on—

(1) the airport sponsor's ability to pay; or

(2) the relative lack of financial resources in a community, based on a comparison of the median income of the community with other communities in the State.

(d) NON-FEDERAL SHARE.—

(1) NON-FEDERAL AMOUNTS.—For purposes of this section, the non-Federal portion of the essential air service subsidy may be derived from contributions in kind, or through reduction in the amount of the essential air service subsidy through reduction of air carrier costs, increased ridership, prepurchase of tickets, or other means. The Secretary shall provide assistance to designated communities in identifying potential means of reducing the amount of the subsidy without adversely affecting air transportation service to the community.

(2) APPLICATION WITH OTHER MATCHING REQUIREMENTS.—This section shall apply to the Federal share of essential air service provided this subchapter, after the application of any other non-Federal share matching requirements imposed by law.

(e) ELIGIBILITY FOR OTHER PROGRAMS NOT AFFECTED.—Nothing in this section affects the eligibility of a community or consortium of communities, an airport sponsor, or any other person to participate in any program authorized by this subchapter. A community designated under this section may participate in any program (including pilot programs) authorized by this subchapter for which it is otherwise eligible—

(1) without regard to any limitation on the number of communities that may participate in that program; and

(2) without reducing the number of other communities that may participate in that program.

(f) SECRETARY TO REPORT TO CONGRESS ON IMPACT.—The Secretary shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on—

(1) the economic condition of communities designated under this section before their designation;

(2) the impact of designation under this section on such communities at the end of each of the 3 years following their designation; and

(3) the impact of designation on air traffic patterns affecting air transportation to and from communities designated under this section.

(Added Pub. L. 108–176, title IV, § 408(a), Dec. 12, 2003, 117 Stat. 2546.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

§ 41748. Marketing program

(a) IN GENERAL.—The Secretary of Transportation shall establish a marketing incentive program for eligible places that receive subsidized service by an air carrier under section 41733. Under the program, the sponsor of the airport serving such an eligible place may receive a grant of not more than \$50,000 in a fiscal year to develop and implement a marketing plan to increase passenger boardings and the level of passenger usage of its airport facilities.

(b) MATCHING REQUIREMENT; SUCCESS BONUSES—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), not less than 25 percent of the publicly financed costs associated with a marketing plan to be developed and implemented under this section shall come from non-Federal sources. For purposes of this section—

(A) the non-Federal portion of the publicly financed costs may be derived from contributions in kind; and

(B) matching contributions from a State or unit of local government may not be derived, directly or indirectly, from Federal funds, but the use by the State or unit of local government of proceeds from the sale of bonds to provide the matching contribution is not considered to be a contribution derived directly or indirectly from Federal funds, without regard to the Federal income tax treatment of interest paid on those bonds or the Federal income tax treatment of those bonds.

(2) BONUS FOR 25-PERCENT INCREASE IN USAGE.—Except as provided in paragraph (3), if, after any 12-month period during which a marketing plan has been in effect under this section with respect to an eligible place, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport serving the eligible place, by 25 percent or more, then only 10 percent of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources under this subsection for the following 12-month period.

(3) BONUS FOR 50-PERCENT INCREASE IN USAGE.—If, after any 12-month period during which a marketing plan has been in effect under this section with respect to an eligible place, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport serving the eligible place, by 50 percent or more, then no portion of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources under this subsection for the following 12-month period.

(Added Pub. L. 108–176, title IV, § 410(b), Dec. 12, 2003, 117 Stat. 2548.)

CODIFICATION

Another section 410(b) of Pub. L. 108–176 amended the table of sections at the beginning of this chapter.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

INCENTIVE PROGRAM

Pub. L. 108–176, title IV, § 410(a), Dec. 12, 2003, 117 Stat. 2548, provided that: “The purposes of this section [enacting this section] are—

“(1) to enable essential air service communities to increase boardings and the level of passenger usage of

airport facilities at an eligible place by providing technical, financial, and other marketing assistance to such communities and to States;

“(2) to reduce subsidy costs under subchapter II of this chapter [probably means chapter 417 of title 49, United States Code] as a consequence of such increased usage; and

“(3) to provide such communities with opportunities to obtain, retain, and improve transportation services.”

SUBCHAPTER III—REGIONAL AIR SERVICE INCENTIVE PROGRAM

§ 41761. Purpose

The purpose of this subchapter is to improve service by jet aircraft to underserved markets by providing assistance, in the form of Federal credit instruments, to commuter air carriers that purchase regional jet aircraft for use in serving those markets.

(Added Pub. L. 106–181, title II, §210(a), Apr. 5, 2000, 114 Stat. 96.)

EFFECTIVE DATE

Subchapter applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41762. Definitions

In this subchapter, the following definitions apply:

(1) **AIR CARRIER.**—The term “air carrier” means any air carrier holding a certificate of public convenience and necessity issued by the Secretary of Transportation under section 41102.

(2) **AIRCRAFT PURCHASE.**—The term “aircraft purchase” means the purchase of commercial transport aircraft, including spare parts normally associated with the aircraft.

(3) **CAPITAL RESERVE SUBSIDY AMOUNT.**—The term “capital reserve subsidy amount” means the amount of budget authority sufficient to cover estimated long-term cost to the United States Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on Government receipts or outlays in accordance with provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(4) **COMMUTER AIR CARRIER.**—The term “commuter air carrier” means an air carrier that primarily operates aircraft designed to have a maximum passenger seating capacity of 75 or less in accordance with published flight schedules.

(5) **FEDERAL CREDIT INSTRUMENT.**—The term “Federal credit instrument” means a secured loan, loan guarantee, or line of credit authorized to be made under this subchapter.

(6) **FINANCIAL OBLIGATION.**—The term “financial obligation” means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of an aircraft purchase, other than a Federal credit instrument.

(7) **LENDER.**—The term “lender” means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code

of Federal Regulations (or any successor regulation) known as Rule 144A(a) of the Security and Exchange Commission and issued under the Security Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(8) **LINE OF CREDIT.**—The term “line of credit” means an agreement entered into by the Secretary with an obligor under section 41763(d) to provide a direct loan at a future date upon the occurrence of certain events.

(9) **LOAN GUARANTEE.**—The term “loan guarantee” means any guarantee or other pledge by the Secretary under section 41763(c) to pay all or part of any of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(10) **NEW ENTRANT AIR CARRIER.**—The term “new entrant air carrier” means an air carrier that has been providing air transportation according to a published schedule for less than 5 years, including any person that has received authority from the Secretary to provide air transportation but is not providing air transportation.

(11) **OBLIGOR.**—The term “obligor” means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(12) **REGIONAL JET AIRCRAFT.**—The term “regional jet aircraft” means a civil aircraft—

(A) powered by jet propulsion; and

(B) designed to have a maximum passenger seating capacity of not less than 30 nor more than 75.

(13) **SECURED LOAN.**—The term “secured loan” means a direct loan funded by the Secretary in connection with the financing of an aircraft purchase under section 41763(b).

(14) **UNDERSERVED MARKET.**—The term “underserved market” means a passenger air transportation market (as defined by the Secretary) that—

(A) is served (as determined by the Secretary) by a nonhub airport or a small hub airport;

(B) is not within a 40-mile radius of an airport that each year has at least .25 percent of the total annual boardings in the United States; and

(C) the Secretary determines does not have sufficient air service.

(Added Pub. L. 106–181, title II, §210(a), Apr. 5, 2000, 114 Stat. 96; amended Pub. L. 108–176, title II, §225(b)(5), Dec. 12, 2003, 117 Stat. 2529.)

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in par. (3), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, as amended, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2,

The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

The Security Act of 1933, referred to in par. (7), probably means the Securities Act of 1933, title I of act May 27, 1933, ch. 38, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

Sections 414(d) and 4974(c) of the Internal Revenue Code of 1986, referred to in par. (7), are classified to sections 414(d) and 4974(c), respectively, of Title 26, Internal Revenue Code.

AMENDMENTS

2003—Pars. (11) to (16). Pub. L. 108-176 redesignated pars. (12), (13), (14), and (16) as (11), (12), (13), and (14), respectively, and struck out former pars. (11) and (15), which defined “nonhub airport” and “small hub airport”, respectively.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

§ 41763. Federal credit instruments

(a) IN GENERAL.—Subject to this section and section 41766, the Secretary of Transportation may enter into agreements with one or more obligors to make available Federal credit instruments, the proceeds of which shall be used to finance aircraft purchases.

(b) SECURED LOANS.—

(1) TERMS AND LIMITATIONS.—

(A) IN GENERAL.—A secured loan under this section with respect to an aircraft purchase shall be on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(B) MAXIMUM AMOUNT.—No secured loan may be made under this section—

(i) that extends to more than 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts, to be purchased; or

(ii) that, when added to the remaining balance on any other Federal credit instruments made under this subchapter, provides more than \$100,000,000 of outstanding credit to any single obligor.

(C) FINAL PAYMENT DATE.—The final payment on the secured loan shall not be due later than 18 years after the date of execution of the loan agreement.

(D) SUBORDINATION.—The secured loan may be subordinate to claims of other holders of obligations in the event of bankruptcy, insolvency, or liquidation of the obligor as determined appropriate by the Secretary.

(E) FEES.—The Secretary, subject to appropriations, may establish fees at a level sufficient to cover all or a portion of the administrative costs to the United States Government of making a secured loan under this section. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering

the program established under this subchapter and shall be available upon deposit until expended.

(2) REPAYMENT.—

(A) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from aircraft revenues and other repayment sources.

(B) COMMENCEMENT.—Scheduled loan repayments of principal and interest on a secured loan under this section shall commence no later than 3 years after the date of execution of the loan agreement.

(3) PREPAYMENT.—

(A) USE OF EXCESS REVENUE.—After satisfying scheduled debt service requirements on all financial obligations and secured loans and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing financial obligations, the secured loan may be prepaid at anytime without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from proceeds of refinancing from non-Federal funding sources.

(c) LOAN GUARANTEES.—

(1) IN GENERAL.—A loan guarantee under this section with respect to a loan made for an aircraft purchase shall be made in such form and on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—No loan guarantee shall be made under this section—

(A) that extends to more than the unpaid interest and 50 percent of the unpaid principal on any loan;

(B) that, for any loan or combination of loans, extends to more than 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts, to be purchased with the loan or loan combination;

(C) on any loan with respect to which terms permit repayment more than 15 years after the date of execution of the loan; or

(D) that, when added to the remaining balance on any other Federal credit instruments made under this subchapter, provides more than \$100,000,000 of outstanding credit to any single obligor.

(3) FEES.—The Secretary, subject to appropriations, may establish fees at a level sufficient to cover all or a portion of the administrative costs to the United States Government of making a loan guarantee under this section. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

(d) LINES OF CREDIT.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary may enter into agreements to make available lines of

credit to one or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any aircraft purchase selected under this section.

(2) TERMS AND LIMITATIONS.—

(A) IN GENERAL.—A line of credit under this subsection with respect to an aircraft purchase shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(B) MAXIMUM AMOUNT.—

(i) TOTAL AMOUNT.—The amount of any line of credit shall not exceed 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts.

(ii) 1-YEAR DRAWS.—The amount drawn in any year shall not exceed 20 percent of the total amount of the line of credit.

(C) DRAWS.—Any draw on the line of credit shall represent a direct loan.

(D) PERIOD OF AVAILABILITY.—The line of credit shall be available not more than 5 years after the aircraft purchase date.

(E) RIGHTS OF THIRD-PARTY CREDITORS.—

(i) AGAINST UNITED STATES GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the United States Government with respect to any draw on the line of credit.

(ii) ASSIGNMENT.—An obligor may assign the line of credit to one or more lenders or to a trustee on the lender's behalf.

(F) SUBORDINATION.—A direct loan under this subsection may be subordinate to claims of other holders of obligations in the event of bankruptcy, insolvency, or liquidation of the obligor as determined appropriate by the Secretary.

(G) FEES.—The Secretary, subject to appropriations, may establish fees at a level sufficient to cover all of a portion of the administrative costs to the United States Government of providing a line of credit under this subsection. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

(3) REPAYMENT.—

(A) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this subsection.

(B) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a direct loan under this subsection shall commence no later than 3 years after the date of the first draw on the line of credit and shall be repaid, with interest, not later than 18 years after the date of the first draw.

(e) RISK ASSESSMENT.—Before entering into an agreement under this section to make available a Federal credit instrument, the Secretary, in consultation with the Director of the Office of

Management and Budget, shall determine an appropriate capital reserve subsidy amount for the Federal credit instrument based on such credit evaluations as the Secretary deems necessary.

(f) CONDITIONS.—Subject to subsection (h), the Secretary may only make a Federal credit instrument available under this section if the Secretary finds that—

(1) the aircraft to be purchased with the Federal credit instrument is a regional jet aircraft needed to improve the service and efficiency of operation of a commuter air carrier or new entrant air carrier;

(2) the commuter air carrier or new entrant air carrier enters into a legally binding agreement that requires the carrier to use the aircraft to provide service to underserved markets; and

(3) the prospective earning power of the commuter air carrier or new entrant air carrier, together with the character and value of the security pledged, including the collateral value of the aircraft being acquired and any other assets or pledges used to secure the Federal credit instrument, furnish—

(A) reasonable assurances of the air carrier's ability and intention to repay the Federal credit instrument within the terms established by the Secretary—

(i) to continue its operations as an air carrier; and

(ii) to the extent that the Secretary determines to be necessary, to continue its operations as an air carrier between the same route or routes being operated by the air carrier at the time of the issuance of the Federal credit instrument; and

(B) reasonable protection to the United States.

(g) LIMITATION ON COMBINED AMOUNT OF FEDERAL CREDIT INSTRUMENTS.—The Secretary shall not allow the combined amount of Federal credit instruments available for any aircraft purchase under this section to exceed—

(1) 50 percent of the cost of the aircraft purchase; or

(2) \$100,000,000 for any single obligor.

(h) REQUIREMENT.—Subject to subsection (i), no Federal credit instrument may be made under this section for the purchase of any regional jet aircraft that does not comply with the stage 3 noise levels of part 36 of title 14 of the Code of Federal Regulations, as in effect on January 1, 1999.

(i) OTHER LIMITATIONS.—No Federal credit instrument shall be made by the Secretary under this section for the purchase of a regional jet aircraft unless the commuter air carrier or new entrant air carrier enters into a legally binding agreement that requires the carrier to provide scheduled passenger air transportation to the underserved market for which the aircraft is purchased for a period of not less than 36 consecutive months after the date that aircraft is placed in service.

(Added Pub. L. 106-181, title II, §210(a), Apr. 5, 2000, 114 Stat. 97.)

§ 41764. Use of Federal facilities and assistance

(a) USE OF FEDERAL FACILITIES.—To permit the Secretary of Transportation to make use of

such expert advice and services as the Secretary may require in carrying out this subchapter, the Secretary may use available services and facilities of other agencies and instrumentalities of the United States Government—

- (1) with the consent of the appropriate Federal officials; and
- (2) on a reimbursable basis.

(b) ASSISTANCE.—The head of each appropriate department or agency of the United States Government shall exercise the duties and powers of that head in such manner as to assist in carrying out the policy specified in section 41761.

(c) OVERSIGHT.—The Secretary shall make available to the Comptroller General of the United States such information with respect to any Federal credit instrument made under this subchapter as the Comptroller General may require to carry out the duties of the Comptroller General under chapter 7 of title 31, United States Code.

(Added Pub. L. 106–181, title II, §210(a), Apr. 5, 2000, 114 Stat. 101.)

§ 41765. Administrative expenses

In carrying out this subchapter, the Secretary shall use funds made available by appropriations to the Department of Transportation for the purpose of administration, in addition to the proceeds of any fees collected under this subchapter, to cover administrative expenses of the Federal credit instrument program under this subchapter.

(Added Pub. L. 106–181, title II, §210(a), Apr. 5, 2000, 114 Stat. 101.)

§ 41766. Funding

Of the amounts appropriated under section 106(k) for each of fiscal years 2001 through 2003, such sums as may be necessary may be used to carry out this subchapter, including administrative expenses.

(Added Pub. L. 106–181, title II, §210(a), Apr. 5, 2000, 114 Stat. 101.)

§ 41767. Termination

(a) AUTHORITY TO ISSUE FEDERAL CREDIT INSTRUMENTS.—The authority of the Secretary of Transportation to issue Federal credit instruments under section 41763 shall terminate on the date that is 5 years after the date of the enactment of this subchapter.

(b) CONTINUATION OF AUTHORITY TO ADMINISTER PROGRAM FOR EXISTING FEDERAL CREDIT INSTRUMENTS.—On and after the termination date, the Secretary shall continue to administer the program established under this subchapter for Federal credit instruments issued under this subchapter before the termination date until all obligations associated with such instruments have been satisfied.

(Added Pub. L. 106–181, title II, §210(a), Apr. 5, 2000, 114 Stat. 101.)

REFERENCES IN TEXT

The date of the enactment of this subchapter, referred to in subsec. (a), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

CHAPTER 419—TRANSPORTATION OF MAIL

Sec.	General authority.
41901.	Schedules for certain transportation of mail.
41902.	Duty to provide certain transportation of mail.
41903.	Noncitizens transporting mail to or in foreign countries. ¹
41904.	Regulating air carrier transportation of foreign mail. ²
41905.	Emergency mail transportation.
41907.	Prices for foreign transportation of mail. ²
41908.	Prices for transporting mail of foreign countries. ²
41906.	Duty to oppose unreasonable prices under the Universal Postal Union Convention.
41907.	Weighing mail.
41911.	Evidence of providing mail service. ²
41908.	Effect on foreign postal arrangements.

AMENDMENTS

2008—Pub. L. 110–405, §2(b)(8), Oct. 13, 2008, 122 Stat. 4289, redesignated items 41906, 41909, and 41910 as 41905 “Emergency mail transportation”, 41906, and 41907 “Weighing mail”, respectively.

Pub. L. 110–405, §2(b)(8), Oct. 13, 2008, 122 Stat. 4289, which directed redesignation of item 41912 as 41908, was executed by redesignating item 41912 as 41908 “Effect of foreign postal arrangements” to reflect the probable intent of Congress.

§ 41901. General authority

(a) TITLE 39.—The United States Postal Service may provide for the transportation of mail by aircraft in interstate air transportation under section 5402(e) and (f) of title 39, and in foreign air transportation under section 5402(b) and (c) of title 39.

(b) AUTHORITY TO PRESCRIBE PRICES.—Except as provided in section 5402 of title 39, on the initiative of the Secretary of Transportation or on petition by the Postal Service or an air carrier, the Secretary shall prescribe and publish—

(1) after notice and an opportunity for a hearing on the record, reasonable prices to be paid by the Postal Service for the transportation of mail by aircraft between places in Alaska, the facilities used in and useful for the transportation of mail, and the services related to the transportation of mail for each carrier holding a certificate that authorizes that transportation;

(2) the methods used, whether by aircraft-mile, pound-mile, weight, space, or a combination of those or other methods, to determine the prices for each air carrier or class of air carriers; and

(3) the effective date of the prices.

(c) OTHER TRANSPORTATION.—In prescribing prices under subsection (b) of this section, the Secretary may include transportation other than by aircraft that is incidental to transportation of mail by aircraft or necessary because of emergency conditions related to aircraft operations.

(d) AUTHORITY TO PRESCRIBE DIFFERENT PRICES.—Considering conditions peculiar to transportation by aircraft and to particular air

¹Section catchline amended by Pub. L. 110–405 without corresponding amendment of chapter analysis.

²Section repealed by Pub. L. 110–405 without corresponding amendment of chapter analysis.

carriers or classes of air carriers, the Secretary may prescribe different prices under this section for different air carriers or classes of air carriers and for different classes of service. In prescribing a price for a carrier under this section, the Secretary shall consider, among other factors, the following:

(1) the condition that the carrier may hold and operate under a certificate authorizing the transportation of mail only by providing necessary and adequate facilities and service for the transportation of mail.

(2) standards related to the character and quality of service to be provided that are prescribed by or under law.

(e) **STATEMENTS ON PRICES.**—A petition for prescribing a reasonable price under this section must include a statement of the price the petitioner believes is reasonable.

(f) **STATEMENTS ON REQUIRED SERVICES.**—The Postal Service shall introduce as part of the record in every proceeding under this section a comprehensive statement of the services to be required of the air carrier and other information the Postal Service has that the Secretary considers material to the proceeding.

(Pub. L. 103-272, §1(e), 4(k)(1), (2), July 5, 1994, 108 Stat. 1153, 1370; Pub. L. 104-52, title VI, §631(c), Nov. 19, 1995, 109 Stat. 505; Pub. L. 106-31, title VI, §6003, May 21, 1999, 113 Stat. 113; Pub. L. 107-206, title III, §3002(e)(2), Aug. 2, 2002, 116 Stat. 924; Pub. L. 110-405, §2(b)(1), (2), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272, §1(e)

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41901(a)	49 App.:1376(a) (1st sentence related to non-Alaska interstate and overseas air transportation less words between parentheses). 49 App.:1551(b)(1)(D).	Aug. 23, 1958, Pub. L. 85-726, § 406(a), 72 Stat. 763; Nov. 9, 1977, Pub. L. 95-163, § 13, 91 Stat. 1282. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 1601(b)(1)(D); added Oct. 4, 1984, Pub. L. 98-443, § 3(d), 98 Stat. 1704.
41901(b)	49 App.:1376(a) (1st sentence related to foreign and Alaska air transportation less words between parentheses, 2d, last sentences). 49 App.:1376(c). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, § 406(c), 72 Stat. 764; Oct. 24, 1978, Pub. L. 95-504, § 24(b), 92 Stat. 1725. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, § 3(e), 98 Stat. 1704.
41901(c)	49 App.:1376(a) (1st sentence words between parentheses).	
41901(d)	49 App.:1376(b). 49 App.:1376(d). 49 App.:1551(b)(1)(D), (E).	Aug. 23, 1958, Pub. L. 85-726, § 406(b), 72 Stat. 763; July 10, 1962, Pub. L. 87-528, § 5, 76 Stat. 145; Oct. 15, 1966, Pub. L. 89-670, § 8(a), 80 Stat. 942; Nov. 9, 1977, Pub. L. 95-163, § 12(a), 91 Stat. 1282; Oct. 24, 1978, Pub. L. 95-504, § 24(a), 92 Stat. 1725. Aug. 23, 1958, Pub. L. 85-726, § 406(d), (e), 72 Stat. 764.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103-272, §1(e)

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41901(e)	49 App.:1376(e) (1st sentence).	
41901(f)	49 App.:1376(e) (last sentence).	
41901(g)	49 App.:1551(b)(1)(D), (E). 49 App.:1551(b)(3). 49 App.:1553(c).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 1601(b)(3); added Oct. 4, 1984, Pub. L. 98-443, § 3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100-457, § 346 (related to § 1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155. Oct. 4, 1984, Pub. L. 98-443, § 4(c), 98 Stat. 1705; Sept. 30, 1988, Pub. L. 100-457, § 346 (related to § 4(c) of Civil Aeronautics Board Sunset Act of 1984), 102 Stat. 2155.

In this section, the word “prescribe” is substituted for “fix and determine” and “fixing and determining” for consistency in the revised title and with other titles of the United States Code. The word “reasonable” is substituted for “fair and reasonable” for consistency in the revised title and to eliminate an unnecessary word. See the revision notes following 49:10101.

Subsection (a) is substituted for 49 App.:1551(b)(1)(D) to make clear that the United States Postal Service derives its authority to provide for the transportation of mail by aircraft in interstate transportation from 39:5402(d) and (f). The text of 49 App.:1376(a) (1st sentence related to non-Alaska interstate and overseas air transportation less words between parentheses) is omitted as superseded by 39:5402(d).

In subsection (b), before clause (1), the words “Except as provided in section 5402 of title 39” are added for clarity. The words “from time to time” in 49 App.:1376(a) are omitted as surplus. The text of 49 App.:1376(a) (2d, last sentences) is omitted as executed. In clauses (1) and (2), the word “prices” is substituted for “rates of compensation” for consistency in this part. In clause (1), the words “an opportunity for a hearing on the record” are substituted for “hearing” for clarity and consistency with subsection (f) of this section. The words “to be paid by the Postal Service” are substituted for “The United States Postal Service shall make payments . . . of so much of the total compensation as is fixed and determined by the Board under this section without regard to clause (3) of subsection (b) of this section” in 49 App.:1376(c) to eliminate unnecessary words because the text of 49 App.:1376(b) (2d sentence words after 2d semicolon) is being omitted. See the revision notes for subsection (d) of this section. The words “out of appropriations for the transportation of mail by aircraft” are omitted as being superseded by chapters 20 and 24 of title 39, United States Code. The text of 49 App.:1376(c) (2d sentence) is omitted as expired because of 49 App.:1376(c) (last sentence). The text of 49 App.:1376(c) (last sentence) is omitted as executed. The words “and to make such rates effective from such date as it shall determine to be proper” in 49 App.:1376(a) are omitted because the power to determine when rates go into effect is included in the power to prescribe rates. The words “transportation of mail by aircraft in foreign air transportation or between places in Alaska” are substituted for “transportation of mail by aircraft” because 49 App.:1551(b)(1)(D) and (E) provides that transportation of mail in interstate or overseas air transportation (except transportation of mail between 2 places in Alaska) is transferred to the jurisdiction of the United States Postal Service leaving the balance of authority under 49 App.:1376(a) with the Secretary of Transportation.

In subsections (c), (d), and (f), reference to service provided by the Postal Service is omitted as obsolete because of 39:5402(d).

In subsection (c), the words “In prescribing prices under subsection (b) of this section, the Secretary” are added for clarity.

In subsection (d), the text of 49 App.:1376(b) (2d sentence words after 2d semicolon, 5th–7th sentences) and (d) is omitted as obsolete because under 49 App.:1376(c) and 1376a, payments by the Board under 49 App.:1376 were terminated. The text of 49 App.:1376(b) (3d, 4th sentences) is omitted as obsolete because it applies only to rates paid for service performed between October 24, 1978, and January 1, 1983. The text of 49 App.:1376(b) (last sentence) is omitted as executed.

Subsection (g) is substituted for 49 App.:1551(b)(3) and 1553(c) because the date on which the authority of the Secretary of Transportation to provide for the transportation of mail by aircraft expires is set out in 39:5402(f). The source provisions of 49 App.:1551(b)(3) providing for the transfer of that authority from the Secretary to the Postal Service are restated in section 5(k) of this bill.

PUB. L. 103–272, § 4(k)(1), (2)

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41901(b)(1), (g).	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(8); added Oct. 4, 1984, Pub. L. 98–443, § 3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(b)(3); added Oct. 4, 1984, Pub. L. 98–443, § 3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100–457, § 346 (related to § 1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(l) and (m) and 1375(b)–(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901–41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–405, § 2(b)(1), substituted “39, and in foreign air transportation under section 5402(b) and (c) of title 39.” for “39.”

Subsec. (b)(1). Pub. L. 110–405, § 2(b)(2), struck out “in foreign air transportation or” after “aircraft”.

2002—Subsec. (a). Pub. L. 107–206 substituted “5402(e)” for “5402(d)”.

1999—Subsecs. (b)(1), (g). Pub. L. 106–31 repealed Pub. L. 103–272, § 4(k). See 1994 Amendment notes below.

1995—Subsec. (g). Pub. L. 104–52 struck out subsec. (g) which read as follows: “EXPIRATION DATE.—The authority of the Secretary under this part and section 5402 of title 39 providing for the transportation of mail by aircraft between places in Alaska expires on the date specified in section 5402(f) of title 39.”

1994—Subsec. (b)(1). Pub. L. 103–272, § 4(k)(1), which directed the amendment of this section by substituting “foreign air transportation,” for “foreign air transportation or between places in Alaska.”, effective Jan. 1, 1999, was repealed by Pub. L. 106–31, § 6003, effective Dec. 31, 1998.

Subsec. (g). Pub. L. 103–272, § 4(k)(2), which directed the amendment of this section by striking out subsec. (g), effective Jan. 1, 1999, was repealed by Pub. L. 106–31, § 6003, effective Dec. 31, 1998.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–405 effective Oct. 1, 2008, see section 2(c) of Pub. L. 110–405, set out as a note under section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–31, title VI, § 6003, May 21, 1999, 113 Stat. 113, provided that the amendment made by section 6003 is effective Dec. 31, 1998.

§ 41902. Schedules for certain transportation of mail

(a) REQUIREMENT.—Except as provided in section 41906¹ of this title and section 5402 of title 39, an air carrier may transport mail by aircraft between places in Alaska only under a schedule designated or required to be established under subsection (c) of this section for the transportation of mail.

(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the United States Postal Service a statement showing—

(1) the places between which the carrier is authorized to transport mail in Alaska;

(2) every schedule of aircraft regularly operated by the carrier between places described in paragraph (1) and every change in each schedule; and

(3) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each such place.

(c) DESIGNATING AND ADDITIONAL SCHEDULES.—The Postal Service may—

(1) designate any schedule of an air carrier filed under subsection (b)(2) of this section for the transportation of mail between the places between which the carrier is authorized by its certificate to transport mail; and

(2) require the carrier to establish additional schedules for the transportation of mail between those places.

(d) CHANGING SCHEDULES.—A schedule designated or required to be established for the transportation of mail under subsection (c) of this section may be changed only after 10 days’ notice of the change is filed as provided in subsection (b)(2) of this section. The Postal Service may disapprove a proposed change in a schedule or amend or modify the schedule or proposed change.

(Pub. L. 103–272, §§ 1(e), 4(k)(1), (3), July 5, 1994, 108 Stat. 1153, 1370; Pub. L. 103–429, § 7(a)(3)(D), Oct. 31, 1994, 108 Stat. 4389; Pub. L. 106–31, title VI, § 6003, May 21, 1999, 113 Stat. 113; Pub. L. 110–405, § 2(b)(3), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272, § 1(e)

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41902(a)	49 App.:1375(b) (last sentence).	Aug. 23, 1958, Pub. L. 85–726, § 405(b), 72 Stat. 760.

¹ See References in Text note below.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103-272, §1(e)

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
	49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(4)(A) (related to §405(b)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(c), (e), 98 Stat. 1703, 1704.
41902(b)	49 App.:1375(b) (1st sentence). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	
41902(c)	49 App.:1375(b) (2d sentence).	
41902(d)	49 App.:1375(b) (3d, 4th sentences).	
41902(e)	49 App.:1375(b) (5th–7th sentences).	
	49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	
41902(f)	49 App.:1375(b) (8th sentence). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(b)), (b)(1)(E).	

In this chapter, the word “places” is substituted for “points” for consistency in the revised title. The words “United States Postal Service” and “Postal Service” are substituted for “Postmaster General” in sections 401, 405, and 406 of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 754, 760) because of sections 4(a) and 6(o) of the Postal Reorganization Act (Public Law 91-375, 84 Stat. 773, 783).

In subsection (a), the words “Except as provided in section 41906 of this title and section 5402 of title 39” are added because section 41906 of the revised title and 39:5402 contain exceptions to the provisions restated in this subsection. The words “transport mail by aircraft in foreign air transportation or between places in Alaska” are substituted for “transport mail” because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(b) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska).

In subsection (b), before clause (1), the words “from time to time” are omitted as surplus. Clauses (1) and (2) are substituted for “to engage in air transportation” because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(b) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). In clause (4), the words “between places described in clauses (1) and (2) of this subsection and every change in each schedule” are substituted for “between such points” for clarity.

In subsection (c)(1), the words “any schedule of an air carrier filed under subsection (b)(3) of this section” are substituted for “any such schedule” for clarity.

In subsection (c)(2), the words “by order” are omitted as surplus.

In subsection (d), the word “alter” is omitted as being included in “amend, or modify”.

In subsection (e), the words “adversely affected” are substituted for “aggrieved” for consistency in the revised title. The words “appeal the order” are substituted for “apply . . . for a review of such order” for consistency in the revised title and with other titles of the United States Code. The words “The Board may review, and” are omitted as surplus. The words “amend, modify” are substituted for “amend, revise” for consistency in the revised title.

Subsection (f) is substituted for 49 App.:1375(b) (8th sentence) to reflect the transfer of functions of the Civil Aeronautics Board to the Secretary of Transportation.

PUB. L. 103-272, §4(k)(1), (3)

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41902(a), (b)	49 App.:1551(a)(8). 49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(8); added Oct. 4, 1984, Pub. L. 98-443, §3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100-457, §346 (related to §1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(3); added Oct. 4, 1984, Pub. L. 98-443, §3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100-457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98-443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98-443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(f) and (m) and 1375(b)-(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901-41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

REFERENCES IN TEXT

Section 41906 of this title, referred to in subsec. (a), was redesignated section 41905 by Pub. L. 110-405, §2(b)(7)(B), Oct. 13, 2008, 122 Stat. 4289.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-405, §2(b)(3)(A), struck out “in foreign air transportation or” after “aircraft”.

Subsec. (b). Pub. L. 110-405, §2(b)(3)(B), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: “Every air carrier shall file with the Secretary of Transportation and the United States Postal Service a statement showing—

“(1) the places between which the carrier is authorized to provide foreign air transportation;

“(2) the places between which the carrier is authorized to transport mail in Alaska;

“(3) every schedule of aircraft regularly operated by the carrier between places described in clauses (1) and (2) of this subsection and every change in each schedule; and

“(4) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each place.”

Subsecs. (c)(1), (d). Pub. L. 110-405, §2(b)(3)(C), substituted “subsection (b)(2)” for “subsection (b)(3)”.

Subsecs. (e), (f). Pub. L. 110-405, §2(b)(3)(D), struck out subsecs. (e) and (f) which read as follows:

“(e) ORDERS.—An order of the Postal Service under this section may become effective only after 10 days after the order is issued. A person adversely affected by the order may appeal the order to the Secretary before the end of the 10-day period under regulations the Secretary prescribes. If the public convenience and necessity require, the Secretary may amend, modify, suspend, or cancel the order. Pending a decision about the order, the Secretary may postpone the effective date of the order.

“(f) PROCEEDINGS PREFERENCES.—The Secretary shall give preference to a proceeding under this section over all other proceedings before the Secretary under this subpart.”

1999—Subsecs. (a), (b)(2) to (4). Pub. L. 106-31 repealed Pub. L. 103-272, §4(k). See 1994 Amendment notes below.

1994—Subsec. (a). Pub. L. 103-272, §4(k)(1), which directed the amendment of this section by substituting “foreign air transportation” for “foreign air transportation or between places in Alaska”, effective Jan. 1, 1999, was repealed by Pub. L. 106-31, §6003, effective Dec. 31, 1998.

Subsec. (b)(2) to (4). Pub. L. 103-272, §4(k)(3), as amended by Pub. L. 103-429, which directed the amendment of subsec. (b) by redesignating par. (3) as (2) and substituting “clause (1)” for “clauses (1) and (2)”, striking out former par. (2) which read as follows: “the places between which the carrier is authorized to transport mail in Alaska;”, and redesignating par. (4) as (3), effective Jan. 1, 1999, was repealed by Pub. L. 106-31, §6003, effective Dec. 31, 1998.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-405 effective Oct. 1, 2008, see section 2(c) of Pub. L. 110-405, set out as a note under section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-31, title VI, §6003, May 21, 1999, 113 Stat. 113, provided that the amendment made by section 6003 is effective Dec. 31, 1998.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 7(a) of Pub. L. 103-429 provided in part that the amendment made by that section is effective July 5, 1994.

§ 41903. Duty to provide certain transportation of mail

(a) AIR CARRIERS.—Subject to subsection (b) of this section, an air carrier authorized by its certificate to transport mail by aircraft between places in Alaska shall—

(1) provide facilities and services necessary and adequate to provide that transportation; and

(2) transport mail between the places authorized in the certificate for transportation of mail when required, and under regulations prescribed, by the United States Postal Service.

(b) MAXIMUM MAIL LOAD.—The Secretary of Transportation may prescribe the maximum mail load for a schedule or for an aircraft or type of aircraft for the transportation of mail by aircraft between places in Alaska. If the Postal Service tenders to an air carrier mail exceeding the maximum load for transportation by the carrier under a schedule designated or required to be established for the transportation of mail under section 41902(c) of this title, the carrier, as nearly in accordance with the schedule as the Secretary decides is possible, shall—

(1) provide facilities sufficient to transport the mail to the extent the Secretary decides the carrier reasonably is able to do so; and

(2) transport that mail.

(Pub. L. 103-272, §§1(e), 4(k)(1), July 5, 1994, 108 Stat. 1154, 1370; Pub. L. 106-31, title VI, §6003, May 21, 1999, 113 Stat. 113; Pub. L. 110-405, §2(b)(4), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES PUB. L. 103-272, §1(e)

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41903(a)	49 App.:1371(l).	Aug. 23, 1958, Pub. L. 85-726, §§401(l), 405(c), (d), 72 Stat. 757, 761.

HISTORICAL AND REVISION NOTES—CONTINUED PUB. L. 103-272, §1(e)

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41903(b)	49 App.:1375(d). 49 App.:1551(a)(4)(A) (related to 49 App.:1371(l), 1375(d)).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(4)(A) (related to §§401(l), 405(c), (d)); added Oct. 4, 1984, Pub. L. 98-443, §3(c), 98 Stat. 1703.
	49 App.:1375(c). 49 App.:1551(a)(4)(A) (related to 49 App.:1375(c)). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the words “Subject to subsection (b) of this section” are added for clarity because subsection (b) limits the effect of this section. The words “transport mail by aircraft in foreign air transportation or between places in Alaska” are substituted for “the transportation of mail” in 49 App.:1371(l) and “the transportation of mail by aircraft” in 49 App.:1375(d) because 49 App.:1551(a)(4)(A) provides that 49 App.:1371(l) and 1375(d) no longer apply to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). Clause (2) is substituted for “shall transport mail whenever required by the United States Postal Service” in 49 App.:1371(l) and the text of 49 App.:1375(d) for clarity and to eliminate unnecessary words. The text of 49 App.:1371(l) (last sentence) is omitted as surplus because section 41901 of the revised title specifies how the rates of compensation are determined.

In subsection (b), before clause (1), the words “transportation of mail by aircraft in foreign air transportation or between places in Alaska” are added because 49 App.:1551(a)(4)(A) provides that 49 App.:1375(c) no longer applies to interstate or overseas air transportation of mail (except transportation of mail between 2 places in Alaska).

PUB. L. 103-272, §4(k)(1)

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41903	49 App.:1551(a)(8).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(8); added Oct. 4, 1984, Pub. L. 98-443, §3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100-457, §346 (related to §1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155.
	49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(3); added Oct. 4, 1984, Pub. L. 98-443, §3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100-457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98-443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98-443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(l) and (m) and 1375(b)-(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901-41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

AMENDMENTS

2008—Subsecs. (a), (b). Pub. L. 110-405 struck out “in foreign air transportation or” before “between places in Alaska” in introductory provisions.

1999—Pub. L. 106-31 repealed Pub. L. 103-272, §4(k). See 1994 Amendment note below.

1994—Pub. L. 103-272, §4(k)(1), which directed the amendment of this section by substituting “foreign air transportation” for “foreign air transportation or between places in Alaska” in introductory provisions of subsecs. (a) and (b), effective Jan. 1, 1999, was repealed by Pub. L. 106-31, §6003, effective Dec. 31, 1998.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-405 effective Oct. 1, 2008, see section 2(c) of Pub. L. 110-405, set out as a note under section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-31, title VI, §6003, May 21, 1999, 113 Stat. 113, provided that the amendment made by section 6003 is effective Dec. 31, 1998.

§ 41904. Noncitizens transporting mail

When the United States Postal Service decides that it may be necessary to have a person not a citizen of the United States transport mail by aircraft between two points outside the United States, the Postal Service may make an arrangement with the person, without advertising, to provide the transportation. Nothing in this section shall affect the authority of the Postal Service to make arrangements with noncitizens for the carriage of mail in foreign air transportation under subsections 5402(b) and (c) of title 39.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1155; Pub. L. 110-405, §2(b)(5), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41904	49 App.:1375(e)(2).	Aug. 23, 1958, Pub. L. 85-726, §405(e)(2), 72 Stat. 761.

The words “who may not be obligated to transport the mail for a foreign country” are omitted for simplicity and clarity because the omitted words impose no requirement or qualification that is meaningful.

AMENDMENTS

2008—Pub. L. 110-405 struck out “to or in foreign countries” after “mail” in section catchline, substituted “between two points outside the United States” for “to or in a foreign country”, and inserted “Nothing in this section shall affect the authority of the Postal Service to make arrangements with noncitizens for the carriage of mail in foreign air transportation under subsections 5402(b) and (c) of title 39.” after “transportation.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-405 effective Oct. 1, 2008, see section 2(c) of Pub. L. 110-405, set out as a note under section 101 of Title 39, Postal Service.

§ 41905. Emergency mail transportation

(a) CONTRACT AUTHORITY.—In an emergency caused by a flood, fire, or other disaster, the United States Postal Service may make a contract without advertising to transport mail by aircraft to or from a locality affected by the emergency when the available facilities of per-

sons authorized to transport mail to or from the locality are inadequate to meet the requirements of the Postal Service during the emergency. The contract may be only for periods necessary to maintain mail service because of the inadequacy of the facilities. Payment for transportation provided under the contract shall be made at prices provided in the contract.

(b) TRANSPORTATION NOT AIR TRANSPORTATION.—Transportation provided under a contract made under subsection (a) of this section is not air transportation within the meaning of this part.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1155, §41906; renumbered §41905, Pub. L. 110-405, §2(b)(7)(B), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41906(a)	49 App.:1375(h) (1st, 2d, last sentences).	Aug. 23, 1958, Pub. L. 85-726, §405(h), 72 Stat. 762.
41906(b)	49 App.:1375(h) (3d sentence).	

In subsection (a), the word “disaster” is substituted for “calamitous visitation” for consistency in the revised title and with other titles of the United States Code. The words “any or all classes of” and “of compensation” are omitted as surplus. The words “from appropriations for the transportation of mail by the means normally used for transporting the mail transported under such contracts” are omitted as superseded by 39:chs. 20 and 24. The authority of the Postal Service under this section is in addition to the authority of the Postal Service under 39:5001.

In subsection (b), the words “Transportation provided” are substituted for “operation” for consistency in this chapter.

PRIOR PROVISIONS

A prior section 41905, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1155, related to regulating air carrier transportation of foreign mail, prior to repeal by Pub. L. 110-405, §2(b)(7)(A), (c), Oct. 13, 2008, 122 Stat. 4289, 4290, effective Oct. 1, 2008.

AMENDMENTS

2008—Pub. L. 110-405 renumbered section 41906 of this title as this section.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-405 effective Oct. 1, 2008, see section 2(c) of Pub. L. 110-405, set out as a note under section 101 of Title 39, Postal Service.

§ 41906. Duty to oppose unreasonable prices under the Universal Postal Union Convention

The Secretary of State and the United States Postal Service shall—

(1) take appropriate action to ensure that the prices paid for transporting mail under the Universal Postal Union Convention are not higher than reasonable prices for transporting mail; and

(2) oppose any existing or proposed Universal Postal Union price that is higher than a reasonable price for transporting mail.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1156, §41909; renumbered §41906, Pub. L. 110-405, §2(b)(7)(B), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41909	49 App.:1376(h)(2).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 406(h)(2); added Jan. 3, 1975, Pub. L. 93-623, § 4, 88 Stat. 2103.

The words “necessary and” are omitted as being included in the word “appropriate”. The words “each” and “all” are omitted as surplus. The words “transporting mail” are substituted for “such services” for consistency in this section. The word “reasonable” is substituted for “fair and reasonable” for consistency in the revised title and to eliminate an unnecessary word. See revision notes following 49:10101.

PRIOR PROVISIONS

A prior section 41906 was renumbered section 41905 of this title.

AMENDMENTS

2008—Pub. L. 110-405 renumbered section 41909 of this title as this section.

§ 41907. Weighing mail

The United States Postal Service may weigh mail transported by aircraft between places in Alaska and make statistical and administrative¹ computations necessary in the interest of mail service. When the Secretary of Transportation decides that additional or more frequent weighings of mail are advisable or necessary to carry out this part, the Postal Service shall provide the weighings, but it is not required to provide them for continuous periods of more than 30 days.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1157, § 41910; renumbered § 41907 and amended Pub. L. 110-405, § 2(b)(6), (7)(B), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41910	49 App.:1376(f). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, § 406(f), 72 Stat. 764. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, § 3(e), 98 Stat. 1704.

The text of 49 App.:1376(f) (2d sentence) is omitted as surplus because of 39:chs. 4 and 10. The words “upon request of the Board” are omitted as surplus because the Secretary of Transportation makes the determination. The words “therefor in like manner” are omitted as surplus.

PRIOR PROVISIONS

A prior section 41907, Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1155, related to prices for foreign transportation of mail, prior to repeal by Pub. L. 110-405, § 2(b)(7)(A), (c), Oct. 13, 2008, 122 Stat. 4289, 4290, effective Oct. 1, 2008.

AMENDMENTS

2008—Pub. L. 110-405, § 2(b)(7)(B), renumbered section 41910 of this title as this section.

Pub. L. 110-405, § 2(b)(6), substituted “The United States Postal Service may weigh mail transported by aircraft between places in Alaska and make statistical and administrative computations necessary in the interest of mail service.” for “The United States Postal

Service may weigh mail transported by aircraft and make statistical and administrative computations necessary in the interest of mail service.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-405 effective Oct. 1, 2008, see section 2(c) of Pub. L. 110-405, set out as a note under section 101 of Title 39, Postal Service.

§ 41908. Effect on foreign postal arrangements

This part does not—

(1) affect an arrangement made by the United States Government with the postal administration of a foreign country related to the transportation of mail by aircraft; or

(2) impair the authority of the United States Postal Service to make such an arrangement.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1157, § 41912; renumbered § 41908, Pub. L. 110-405, § 2(b)(7)(B), Oct. 13, 2008, 122 Stat. 4289.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41912	49 App.:1375(e)(1).	Aug. 23, 1958, Pub. L. 85-726, § 405(e)(1), 72 Stat. 761.

In clause (1), the words “abrogate or” are omitted as being included in “affect”.

PRIOR PROVISIONS

A prior section 41908, Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1156, related to prices for transporting mail of foreign countries, prior to repeal by Pub. L. 110-405, § 2(b)(7)(A), (c), Oct. 13, 2008, 122 Stat. 4289, 4290, effective Oct. 1, 2008.

AMENDMENTS

2008—Pub. L. 110-405, which directed the amendment of this chapter by renumbering section 49112 as this section, was executed by renumbering section 41912 of this title as this section to reflect the probable intent of Congress.

[§ 41909. Renumbered § 41906]**[§ 41910. Renumbered § 41907]****[§ 41911. Repealed. Pub. L. 110-405, § 2(b)(7)(A), Oct. 13, 2008, 122 Stat. 4289]**

Section, Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1157, related to evidence of providing mail service.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2008, see section 2(c) of Pub. L. 110-405, set out as an Effective Date of 2008 Amendment note under section 101 of Title 39, Postal Service.

[§ 41912. Renumbered § 41908]**CHAPTER 421—LABOR-MANAGEMENT PROVISIONS****SUBCHAPTER I—EMPLOYEE PROTECTION PROGRAM¹**

Sec.	
42101.	Definitions.
42102.	Payments to eligible protected employees.
42103.	Duty to hire protected employees.
42104.	Congressional review of regulations.
42105.	Airline Employees Protective Account.

¹ Subchapter I repealed by Pub. L. 105-220 without corresponding amendment of chapter analysis.

¹ So in original.

42106. Ending effective date.

**SUBCHAPTER II—MUTUAL AID AGREEMENTS
AND LABOR REQUIREMENTS OF AIR CARRIERS**

42111. Mutual aid agreements.

42112. Labor requirements of air carriers.

**SUBCHAPTER III—WHISTLEBLOWER PROTECTION
PROGRAM**

42121. Protection of employees providing air safety information.

AMENDMENTS

2000—Pub. L. 106-181, title V, §519(b), Apr. 5, 2000, 114 Stat. 149, added heading for subchapter III and item 42121.

[SUBCHAPTER I—REPEALED]

[§§ 42101 to 42106. Repealed. Pub. L. 105-220, title I, § 199(a)(6), Aug. 7, 1998, 112 Stat. 1059]

Section 42101, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1157, defined terms in subchapter.

Section 42102, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1158, related to payments to eligible protected employees.

Section 42103, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1159, related to duty to hire protected employees.

Section 42104, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1159; Pub. L. 104-287, §5(9), Oct. 11, 1996, 110 Stat. 3389, related to congressional review of regulations.

Section 42105, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1160, related to Airline Employees Protective Account.

Section 42106, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1160, provided ending effective date for subchapter.

SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

§ 42111. Mutual aid agreements

An air carrier that will receive payments from another air carrier under an agreement between the air carriers for the time the one air carrier is not providing foreign air transportation, or is providing reduced levels of foreign air transportation, because of a labor strike must file a true copy of the agreement with the Secretary of Transportation and have it approved by the Secretary under section 41309 of this title. Notwithstanding section 41309, the Secretary shall approve the agreement only if it provides that—

(1) the air carrier will receive payments of not more than 60 percent of direct operating expenses, including interest expenses, but not depreciation or amortization expenses;

(2) benefits may be paid for not more than 8 weeks, and may not be for losses incurred during the first 30 days of a strike; and

(3) on request of the striking employees, the dispute will be submitted to binding arbitration under the Railway Labor Act (45 U.S.C. 151 et seq.).

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
42111	49 App.:1382(c).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §412(c); added Oct. 24, 1978, Pub. L. 95-504, §29(a), 92 Stat. 1730; Feb. 15, 1980, Pub. L. 96-192, §11(2), 94 Stat. 39; Oct. 4, 1984, Pub. L. 98-443, §9(s), 98 Stat. 1708.
	49 App.:1551(b)(1)(C) (related to 49 App.:1382(c)).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(C) (related to §412(c)); added Oct. 24, 1978, Pub. L. 95-504, §40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97-309, §4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98-443, §3(a), 98 Stat. 1703.

In this section, before clause (1), the text of 49 App.:1382(c)(1) is omitted as executed. The words “For purposes of this subsection, the term . . . (A) ‘mutual aid agreement’ means” are omitted because of the restatement. The words “contract or”, “which are parties to such contract or agreement”, and “during which” are omitted as surplus. The word “providing” is substituted for “engaging in” for consistency. The words “service in” are omitted as surplus. The words “No air carrier shall enter into any mutual aid agreement with any other air carrier” are omitted as surplus. In clause (1), the words “For purposes of this subsection, the term . . . (B) ‘direct operating expenses’ includes” are omitted because of the restatement. The words “for any period” and “during such period” are omitted as surplus. In clause (2), the words “under the agreement” and “during any labor strike” are omitted as surplus.

REFERENCES IN TEXT

The Railway Labor Act, referred to in par. (3), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

§ 42112. Labor requirements of air carriers

(a) DEFINITIONS.—In this section—

(1) “copilot” means an employee whose duties include assisting or relieving the pilot in manipulating an aircraft and who is qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a copilot.

(2) “pilot” means an employee who is—

(A) responsible for manipulating or who manipulates the flight controls of an aircraft when under way, including the landing and takeoff of an aircraft; and

(B) qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a pilot.

(b) DUTIES OF AIR CARRIERS.—An air carrier shall—

(1) maintain rates of compensation, maximum hours, and other working conditions and relations for its pilots and copilots who are providing interstate air transportation in the 48 contiguous States and the District of Columbia to conform with decision number 83, May 10, 1934, National Labor Board, notwithstanding any limitation in that decision on the period of its effectiveness;

(2) maintain rates of compensation for its pilots and copilots who are providing foreign air transportation or air transportation only in one territory or possession of the United States; and

(3) comply with title II of the Railway Labor Act (45 U.S.C. 181 et seq.) as long as it holds its certificate.

(c) **MINIMUM ANNUAL RATE OF COMPENSATION.**—A minimum annual rate under subsection (b)(2) of this section may not be less than the annual rate required to be paid for comparable service to a pilot or copilot under subsection (b)(1) of this section.

(d) **COLLECTIVE BARGAINING.**—This section does not prevent pilots or copilots of an air carrier from obtaining by collective bargaining higher rates of compensation or more favorable working conditions or relations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
42112(a)	49 App.:1371(k)(5).	Aug. 23, 1958, Pub. L. 85–726, § 401(k), 72 Stat. 756.
42112(b), (c)	49 App.:1371(k)(1), (2), (4).	
42112(d)	49 App.:1371(k)(3).	

In subsection (a), the words “properly” and “currently” are omitted as surplus.

In subsection (b), the word “providing” is substituted for “engaged in” for consistency in the revised title. In clause (1), the words “48 contiguous States and the District of Columbia” are substituted for “the continental United States (not including Alaska)” for clarity and consistency in the revised title. In clause (2), the words “overseas or” are omitted as obsolete. The word “only” is substituted for “wholly” for consistency. In clause (3), the words “as long as it holds” are substituted for “upon the holding” for clarity.

In subsection (c), the words “under subsection (b)(1) of this section” are substituted for “said decision 83 . . . engaged in interstate air transportation within the continental United States (not including Alaska)” to eliminate unnecessary words.

In subsection (d), the words “or other employees” are omitted as unnecessary because this section only applies to pilots and copilots.

REFERENCES IN TEXT

The Railway Labor Act, referred to in subsec. (b)(3), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended. Title II of the Act was added by act Apr. 10, 1936, ch. 166, 49 Stat. 1189, and is classified generally to subchapter II (§181 et seq.) of chapter 8 of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

LABOR INTEGRATION

Pub. L. 110–161, div. K, title I, §117, Dec. 26, 2007, 121 Stat. 2382, provided that:

“(a) **LABOR INTEGRATION.**—With respect to any covered transaction involving two or more covered air carriers that results in the combination of crafts or classes that are subject to the Railway Labor Act (45 U.S.C. 151 et seq.), sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 C.A.B. 45) shall apply to the integration of covered employees of the covered air carriers; except that—

“(1) if the same collective bargaining agent represents the combining crafts or classes at each of the covered air carriers, that collective bargaining agent’s internal policies regarding integration, if any, will not be affected by and will supersede the requirements of this section; and

“(2) the requirements of any collective bargaining agreement that may be applicable to the terms of integration involving covered employees of a covered

air carrier shall not be affected by the requirements of this section as to the employees covered by that agreement, so long as those provisions allow for the protections afforded by sections 3 and 13 of the Allegheny-Mohawk provisions.

“(b) **DEFINITIONS.**—In this section, the following definitions apply:

“(1) **AIR CARRIER.**—The term ‘air carrier’ means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

“(2) **COVERED AIR CARRIER.**—The term ‘covered air carrier’ means an air carrier that is involved in a covered transaction.

“(3) **COVERED EMPLOYEE.**—The term ‘covered employee’ means an employee who—

“(A) is not a temporary employee; and

“(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

“(4) **COVERED TRANSACTION.**—The term ‘covered transaction’ means—

“(A) a transaction for the combination of multiple air carriers into a single air carrier; and which

“(B) involves the transfer of ownership or control of—

“(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

“(ii) 50 percent or more (by value) of the assets of the air carrier.

“(c) **APPLICATION.**—This section shall not apply to any covered transaction involving a covered air carrier that took place before the date of enactment of this Act [Dec. 26, 2007].

“(d) **EFFECTIVENESS OF PROVISION.**—This section shall become effective on the date of enactment of this Act and shall continue in effect in fiscal years after fiscal year 2008.”

SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

§ 42121. Protection of employees providing air safety information

(a) **DISCRIMINATION AGAINST AIRLINE EMPLOYEES.**—No air carrier or contractor or subcontractor of an air carrier may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

(3) testified or is about to testify in such a proceeding; or

(4) assisted or participated or is about to assist or participate in such a proceeding.

(b) **DEPARTMENT OF LABOR COMPLAINT PROCEDURE.**—

(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 90 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Federal Aviation Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

(2) INVESTIGATION; PRELIMINARY ORDER.—

(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary of Labor concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(B) REQUIREMENTS.—

(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evi-

dence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(3) FINAL ORDER.—

(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to—

(i) take affirmative action to abate the violation;

(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding \$1,000.

(4) REVIEW.—

(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the

violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

(6) ENFORCEMENT OF ORDER BY PARTIES.—

(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of an air carrier, contractor, or subcontractor who, acting without direction from such air carrier, contractor, or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.

(e) CONTRACTOR DEFINED.—In this section, the term “contractor” means a company that performs safety-sensitive functions by contract for an air carrier.

(Added Pub. L. 106–181, title V, §519(a), Apr. 5, 2000, 114 Stat. 145.)

EFFECTIVE DATE

Subchapter applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

SUBPART III—SAFETY

CHAPTER 441—REGISTRATION AND RECORDATION OF AIRCRAFT

Sec.	
44101.	Operation of aircraft.
44102.	Registration requirements.
44103.	Registration of aircraft.
44104.	Registration of aircraft components and dealers' certificates of registration.
44105.	Suspension and revocation of aircraft certificates.
44106.	Revocation of aircraft certificates for controlled substance violations.
44107.	Recordation of conveyances, leases, and security instruments.
44108.	Validity of conveyances, leases, and security instruments.
44109.	Reporting transfer of ownership.
44110.	Information about aircraft ownership and rights.
44111.	Modifications in registration and recordation system for aircraft not providing air transportation.
44112.	Limitation of liability.
44113.	Definitions.

AMENDMENTS

2004—Pub. L. 108–297, §6(b), Aug. 9, 2004, 118 Stat. 1097, added item 44113.

§ 44101. Operation of aircraft

(a) REGISTRATION REQUIREMENT.—Except as provided in subsection (b) of this section, a person may operate an aircraft only when the aircraft is registered under section 44103 of this title.

(b) EXCEPTIONS.—A person may operate an aircraft in the United States that is not registered—

(1) when authorized under section 40103(d) or 41703 of this title;

(2) when it is an aircraft of the national defense forces of the United States and is identified in a way satisfactory to the Administrator of the Federal Aviation Administration; and

(3) for a reasonable period of time after a transfer of ownership, under regulations prescribed by the Administrator.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1161.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44101(a)	49 App.:1401(a) (1st sentence words before proviso less words between parentheses).	Aug. 23, 1958, Pub. L. 85–726, §501(a), 72 Stat. 771.
44101(b)	49 App.:1401(a) (1st sentence words between parentheses, proviso, last sentence). 49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In this section, the word “navigate” is omitted as being included in the definition of “operate aircraft” in section 40102(a) of the revised title.

In subsection (a), the words “Except as provided in subsection (b) of this section” are added for clarity. The words “a person may . . . an aircraft only when the